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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 716/2006**of 5 May 2006****imposing a definitive anti-dumping duty on imports of dead-burned (sintered) magnesia originating in the People's Republic of China**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (hereinafter referred to as the basic Regulation), and in particular Articles 9 and 11(2) thereof,

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

Whereas:

A. PROCEDURE**1. Measures in force**

- (1) In December 1993, definitive anti-dumping measures on imports of dead-burned (sintered) magnesia (DBM or the product concerned) originating in the People's Republic of China (PRC) were imposed by Council Regulation (EC) No 3386/93⁽²⁾ (original investigation). These measures took the form of a minimum import price.
- (2) Following an expiry review, these anti-dumping measures were maintained in February 2000 by Council Regulation (EC) No 360/2000⁽³⁾.
- (3) Following an interim review, the Council, by Regulation (EC) No 986/2003⁽⁴⁾, amended the form of the anti-dumping measures in force by maintaining the minimum price but subject to specific conditions and imposing an *ad valorem* duty of 63,3 % in all other cases.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Council Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 306, 11.12.1993, p. 16.

⁽³⁾ OJ L 46, 18.2.2000, p. 1. Regulation as amended by Regulation (EC) No 986/2003 (OJ L 143, 11.6.2003, p. 5).

⁽⁴⁾ OJ L 143, 11.6.2003, p. 5.

2. Request for a review

- (4) Following the publication of a notice of impending expiry of the anti-dumping measures in force on imports of DBM originating in the PRC⁽⁵⁾, the Commission's services received a request in November 2004 to review these measures pursuant to Article 11(2) of the basic Regulation.
- (5) The request was lodged by Eurométaux, acting on behalf of Community producers (hereinafter referred to as the applicant producers) representing a major proportion, in this case more than 50 %, of the total Community production of DBM.
- (6) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Community industry. Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission initiated an investigation⁽⁶⁾ pursuant to Article 11(2) of the basic Regulation.

3. Investigation

- (7) The Commission's services officially advised the applicant Community producers, the other Community producers, the exporting producers in the PRC (hereinafter Chinese exporters), the importers, traders, users and their associations known to be concerned, as well as the representatives of the government of the exporting country, of the initiation of the review.
- (8) The Commission's services sent questionnaires to all these parties and to those who made themselves known within the time limit set in the notice of initiation.

⁽⁵⁾ OJ C 215, 27.8.2004, p. 2.

⁽⁶⁾ OJ C 38, 15.2.2005, p. 2.

- (9) The Commission's services also gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.
- (10) In view of the apparent high number of exporting producers in the PRC and importers of the product concerned, sampling was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation. In order to be able to decide whether sampling would be necessary and, if so, to select a sample, the Commission's services sent out sampling forms asking specific information on average sales volume and prices of each exporting producer and importer concerned. No reply was received from any exporting producer, and only three replies were received from importers. It was therefore decided that sampling was not necessary.
- (11) In addition, questionnaires were sent to producers in potential analogue countries, namely Brazil, Canada and Turkey, which were known to the Commission's services.
- (12) All the applicant Community producers replied to the questionnaire. No Chinese exporting producer and no importer replied to the questionnaire. However, two importers made their views known in writing. One user submitted a partial reply to the questionnaire.
- (13) The Commission's services sought and verified all information deemed necessary for the purpose of a determination of the likely continuation or recurrence of dumping and injury and of the Community interest. Verification visits were carried out at the premises of the following companies:

(a) *applicant Community producers:*

- Grecian Magnesite SA, Athens, Greece,
- Magnesitas Navarras, SA, Pamplona, Spain,
- Slovenské magnezitové Závody as, Jelšava, Slovakia;

(b) *producer in the analogue country:*

- Kümaş Kütahya Manyezit İşletmeleri Pazarlama a.ş., Kütahya, Turkey.

4. Investigation period

- (14) The investigation of continuation or recurrence of dumping covered the period from 1 January 2004 to 31 December 2004 (hereinafter referred to as IP). The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 1 January 2000 up to the end of the IP (the period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (15) The product concerned is the same as that in the previous investigations which led to the imposition of measures currently in force, i.e. natural dead-burned magnesite originating in the PRC and falling within CN code 2519 90 30.
- (16) DBM is processed from magnesite, that is naturally occurring magnesium carbonate. In order to produce DBM, magnesium carbonate has to be mined, crushed, sorted and then burned in a kiln at temperatures of 1 500 to 2 000 °C. The result is DBM with a MgO (magnesium oxide) content ranging from 80 to 98 %. The main impurities in DBM are SiO₂, Fe₂O₃, Al₂O₃, CaO and B₂O₃ (silicon oxide, iron oxide, aluminium oxide, calcium oxide and boron oxide respectively). DBM is mainly used in the refractory industry to make formed and unformed refractories. Although there are different types of the product concerned with e.g. various content of MgO, they all share the same basic chemical and physical characteristics and uses and are interchangeable. Therefore, as in the previous investigation, all grades of DBM should be considered to form one single product for the purpose of this investigation.

2. Like product

- (17) As established in the previous investigations, this review investigation has confirmed that the products exported by the PRC and those manufactured and sold on the domestic market of the PRC, as well as those manufactured and sold by the Community producers on the Community market and by the producer in the analogue country on the domestic market of the analogue country have the same basic physical and chemical characteristics and end uses and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF A CONTINUATION OF DUMPING

- (18) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the measures would be likely to lead to a continuation of dumping.

1. Preliminary remarks

- (19) In the absence of cooperation either from any of the Chinese exporting producers or from any importer in the Community, this examination had to be based on information available to the Commission's services from other sources. In this respect and in accordance with the provisions of Article 18 of the basic Regulation, Eurostat data referring to the eight-digit CN code, checked with other sources, were used in order to establish import quantities and prices.
- (20) Based on the Eurostat data, it was found that during the IP 369 079 tonnes of DBM were imported from the PRC into the Community, i.e. approximately 40 % of the Community consumption.
- (21) During the IP of the previous expiry review, the import volume of Chinese DBM into the Community amounted to 260 967 tonnes, i.e. 54 % of Community consumption.
- (22) It should be noted that, as the Community expanded to the 25 Member States, export volumes and export market shares of the previous and the current expiry reviews cannot be directly compared.

2. Dumping of imports during the investigation period

- (23) In accordance with Article 11(9) of the basic Regulation, the Commission's services used the same methodology as in the previous investigation. It is recalled that in the previous investigation, a dumping margin in the order of 50 % was established.

Analogue country

- (24) In calculating normal value, account was taken of the fact that for this investigation the normal value for imports from the PRC had to be based on data from a market economy third country in accordance with Article 2(7)(a) of the basic Regulation. In the notice of initiation Turkey was envisaged as an appropriate market economy third country. An unrelated importer submitted that Turkey was inappropriate on the grounds that the access to raw materials in Turkey was more difficult than in the PRC: magnesite mines in Turkey do not enjoy the same natural advantages as in the PRC so the extracting and processing costs were higher than in Chinese mines. Moreover, the same importer claimed that the Turkish domestic market was too small to be representative for the Chinese market. This importer suggested

Brazil or Canada as more appropriate potential market economy third countries.

- (25) The Commission's services examined whether Turkey, which was already used as market economy third country in the previous investigation, was still a reasonable choice. In particular, it was found that at least three Turkish companies produced and sold DBM in Turkey in significant quantities in competition with each other and with imports from other countries. The question of access to raw materials being easier in the PRC than in Turkey was addressed in the original investigation and no new evidence was submitted to change the conclusion that Turkey was an appropriate market economy third country. Insofar as such differences were shown to exist, these could be taken into account by making the necessary adjustments. One Turkish producer agreed to cooperate.
- (26) The proposal of Brazil and Canada as potential analogue countries was also taken into account and anti-dumping questionnaires were sent to all known producers of DBM in these countries. However, no responses were received and thus no information was available to the Commission's services on sales prices and costs of production for DBM in Canada and Brazil. Therefore, no further consideration could be given to the use of Brazil and Canada as analogue countries.
- (27) It was therefore concluded that Turkey was an appropriate analogue country for the purpose of establishing the normal value.

Normal value

- (28) In accordance with Article 2(4) of the basic Regulation, it was considered whether sufficient domestic sales of the product concerned had been made by the producer in Turkey in the ordinary course of trade. As the volume of profitable transactions was higher than 80 %, and the weighted average price was above the cost of production plus selling, general and administrative costs, normal value was established on the basis of the weighted average prices actually paid for sales of the product concerned on the domestic Turkish market. In accordance with Article 18 of the basic Regulation, and in the absence of any cooperation from Chinese exporters, the weighted average sales price of the Turkish producer was used as there was no information as to the product types imported from the PRC into the Community and no information was available that suggested that the product mix of Chinese exports to the Community and Turkish domestic sales was substantially different.

Export price

- (29) Given the lack of cooperation from the Chinese exporters, the export price had to be based on facts available in accordance with Article 18 of the basic Regulation. Eurostat figures were chosen as the appropriate basis for establishing the export price. The Eurostat average price levels were confirmed by reference to information obtained from the one cooperating user.

Comparison

- (30) The weighted average normal value was compared to the weighted average export price of DBM, in accordance with Article 2(11) of the basic Regulation, both at ex-works level.
- (31) For the purpose of ensuring a fair comparison between normal value and export price, account was taken for differences in factors affecting price comparability in accordance with Article 2(10) of the basic Regulation. In this respect, adjustments were made for inland and ocean freight, insurance, handling, loading and ancillary costs.
- (32) In the previous investigation it was accepted that access to raw materials was easier in the PRC than in Turkey. As no information was submitted to indicate that this situation had changed, an allowance was granted in order to take into account the difference in extraction rates between the two countries. The same adjustment to the normal value was applied as in the previous investigation, i.e. a reduction of the normal value corresponding to 20 % of the extraction costs found for the cooperating Turkish producer.
- (33) Furthermore, as in the previous investigations, it was considered that the purity of the PRC raw material was higher than that of the Turkish raw material. In the absence of any information submitted indicating any change in this respect, an adjustment corresponding to 25 % of the cost of manufacturing found for the cooperating Turkish producer was therefore made to take account of this difference.

Dumping margin

- (34) The comparison of normal value and export price showed the existence of dumping, the dumping margin being equal to the amount by which normal value, so established, exceeded the price for export to the Community. The dumping margin found, as a percentage of the cif Community-frontier import price, was in the order of 35 %.

3. Developments of imports should measures be repealed*Preliminary remarks*

- (35) Further to the analysis of the existence of dumping during the IP, the likelihood of the continuation of dumping was also examined. In the absence of cooperation from any Chinese exporting producer and as little public information about the Chinese DBM industry was available, the conclusions below rely mainly on facts available, namely the market research information submitted by the applicant producers or found during the investigation and deemed reliable, together with data from Eurostat, the Japan Trade Statistics and the United States bureau of the Census.

Chinese production capacity

- (36) According to the expiry review request, Chinese producers have substantial spare production capacity as they have the largest magnesite ore resource in the world, estimated at 1 300 million tonnes. The total Chinese production capacity for the product concerned is estimated at around 3,5 million tonnes per year, whereas the Chinese domestic consumption is estimated at some 1,2 to 1,5 million tonnes and exports of around one million tonnes per year. This indicates that the Chinese production could be rapidly increased further by Chinese exporters.

Chinese export prices to the Community

- (37) According to Eurostat figures, the export price of Chinese DBM to the Community has dropped by 10 % between 2000 and the IP, whereas measures were in force. The average export price of DBM nevertheless remained above the minimum import price imposed.

Exports to third countries

- (38) Japan and the USA were two of the main export markets of China for DBM during the period considered.
- (39) Between 2000 and the IP, prices of Chinese exports to Japan fell by approximately 7 %, from Yen 20 054 per tonne to Yen 19 513 per tonne, while quantities remained stable overall between 2000 and the IP, at around 270 000 tonnes. The export prices to Japan, expressed in euro, were EUR 202 per tonne and EUR 145 per tonne respectively in 2000 and during the IP.
- (40) Although still higher than export prices to the EC, the export prices to Japan were thus much closer to export prices to the EC at the end of the period considered than at the beginning. Therefore, during the period considered, exports to the EC became more attractive to Chinese exporters compared to exports to Japan, and Chinese exporters have had an incentive to export larger volumes to the EC.

(41) Between 2000 and the IP, prices of Chinese exports to the United States of America (USA) increased considerably, from USD 129 per tonne to USD 208 per tonne during the IP, which corresponds to EUR 140 per tonne and EUR 167 per tonne, respectively.

(42) In respect of this huge increase in export prices to the USA, it has to be noted that during the period considered all US producers of natural DBM stopped gradually their activity, and that Chinese imports of DBM dominated the US market. Indeed, they accounted for around 82 % of the consumption of dead-burned magnesia in the US during the IP.

(43) With comparatively high prices, in particular in view of the higher price level of exports to the USA than to the EC, the US market may thus have become more attractive to Chinese exporters of DBM during the period considered. However, the export quantities of DBM to the USA did not increase overall between the beginning of the period considered and the IP, and remained around 340 000 tonnes per year. Thus, it does not appear likely that Chinese exporters would still increase significantly their volumes of exports of DBM to the USA in the near future.

(44) In any event, in view of the significant spare capacity of the producers in the PRC, it is unlikely that third countries could absorb an increase of Chinese exports. If measures were allowed to lapse, Chinese exporters would therefore have an incentive to increase exports to the Community.

Likely evolution of Chinese exports to the Community

(45) Bearing in mind that no Chinese exporting producer cooperated with the investigation, the analysis of the evolution of Chinese exports to the Community was based on facts available in accordance with Article 18 of the basic Regulation.

(46) The trends observed during the period considered show big annual variations in average volumes and unit prices of the Chinese exports to the Community.

(47) Concerning prices, as mentioned above, the overall decrease in prices during the period considered was 10 %, but a substantial decrease (– 24 %) has occurred in the last years of the period considered, namely between 2001 and 2004.

(48) As to volumes, it was pointed out above that the Chinese exporters would have an incentive to further increase their export volumes to the EU in view of the available spare capacity and the limited possibilities to increase

exports to third countries. Furthermore, while the overall evolution during the period considered showed an increase of 6 %, considerable increases have occurred in the last years of the period considered (+ 36 % between 2001 and 2004).

(49) As there is no indication that the trends observed during the last years of the period considered would not continue, the information available shows that a further decrease in prices and a further increase in volume are likely to happen. Indeed, the expected further increase of Chinese exports to the EC would probably be made at the expense of the Community industry, in other words at prices at or even below the current dumped price levels in order to gain market share.

(50) Furthermore, it has to be pointed out that, as described in recital 73 of Regulation (EC) No 360/2000, the Chinese export prices and quantities are currently influenced by the export licence system put in place by the Chinese authorities, indicating that, should this system be abolished, the Chinese exporters have the potential to raise their export volume and to lower their export price.

Conclusion on the likelihood of a continuation of dumping

(51) The investigation showed that the Chinese exporters continued their dumping practices during the IP at significant level. Given the fact that China has considerable spare production capacity and that the EC may have become a more attractive market for Chinese exporters than in the past as compared to other markets, there is a strong likelihood that dumping, at the very least at similar levels, would continue if the existing measures were repealed. Moreover, there is a likelihood that the volume of dumped imports would significantly increase and that their price would decrease if existing measures were repealed.

D. DEFINITION OF THE COMMUNITY INDUSTRY

(52) During the IP there were five producers of DBM in the Community. The investigation established that the three applicant and fully cooperating Community producers represented around 55 % of the Community production of DBM and, therefore, constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.

(53) One producer did not cooperate, but did also not oppose the investigation. It was shown that this producer is a completely downstream integrated producer, using its output of DBM exclusively for internal consumption.

- (54) Another producer was known to the Commission and was contacted in the framework of this proceeding. This company did not express its support or oppose the proceeding.

destined for captive use are not exposed to direct competition with imports. By contrast, production destined for free market sales was found to be in direct competition with imports of the product concerned.

E. DETERMINATION OF THE RELEVANT COMMUNITY MARKET

- (55) In order to establish whether or not the Community industry suffered injury and to determine consumption and the various economic indicators related to the situation of the Community industry, it was examined whether and to what extent the subsequent use of the Community industry's production of the like product had to be taken into account in the analysis.
- (56) DBM is used as an input in the production of refractories within the same companies, or is sold as such to a third party, related or not.
- (57) For the purpose of this investigation, captive use was defined as occurring when production was delivered within the same group of companies for further downstream processing. In situations of captive use, sales or transfer of costs were made at transfer value not set according to market conditions or were made to a company which did not have a free choice of supplier. Consequently, captive use had to be analysed at the level of produced quantities and the proportion of total sales it represented. All other situations were considered as free market sales.
- (58) The distinction between the captive and the free market is relevant for the injury analysis because products

- (59) In order to provide as complete a picture as possible of the situation of the Community industry, data have been obtained and analysed for the entire DBM activity and it was subsequently determined whether the production was destined for captive use or for the free market.
- (60) On the basis of the investigation, it was found that certain economic indicators related to the Community industry could reasonably be examined by referring to the whole activity, i.e. for both captive use and free market sales. Indeed, production, production capacity and capacity utilisation, cash flow, investments, ability to raise capital, stocks, employment, labour costs and productivity depend upon the whole activity, regardless of whether the product is transferred downstream within a group of companies for further processing or whether it is sold on the free market.
- (61) The other economic indicators related to the Community industry were analysed and evaluated referring to the situation prevailing on the free market, in particular where measurable market conditions exist and where transactions are made under normal market conditions implying free choice of supplier: sales volume and sales prices on the Community market, export volume and prices. In this respect, consumption, market shares, growth as well as profitability and return on investment were determined on the basis of the free market sales.

F. SITUATION IN THE COMMUNITY MARKET

1. Consumption in the Community market

- (62) Community consumption was based on the combined volume of sales made by the Community industry in the Community, excluding captive use, imports from the PRC and imports from other third countries.
- (63) On this basis, during the period considered, Community consumption increased by 32 %, from 693 145 tonnes in 2000 to 911 672 tonnes in the IP. This was partially due to the recovery of the steel industry.

Table 1 — Community consumption

Community consumption	2000	2001	2002	2003	IP
Free market (tonnes)	693 145	792 575	701 723	817 678	911 672
Index	100	114	101	118	132
Y/Y trend		14	- 13	17	14

Source: Eurostat, verified questionnaire replies of the Community industry and market information provided by the applicant producers.

- (64) For the purpose of completing the information provided for Community consumption on the free market, the consumption for captive use was also calculated, based on verified questionnaire replies of the Community industry and on market information provided by the applicant producers. It was found that the consumption for captive use increased by 12 % during the period considered.

Table 2 — Captive use

Captive use	2000	2001	2002	2003	IP
Quantity (tonnes)	394 191	399 839	404 773	417 495	442 131
Index	100	101	103	106	112
Y/Y trend		1	2	3	6

2. Import from the PRC

Volume and market share

- (65) Volumes imported from the PRC did not follow the same trend as Community consumption. They decreased first by 25 % on average from 2000 to 2002, and then increased between 2002 and the IP by 41 %. Overall, during the period considered imports from the PRC increased by 6 %, from 349 561 to 369 079 tonnes.

Table 3 — Imports from the PRC

Imports from the PRC	2000	2001	2002	2003	IP
Tonnes	349 561	271 147	261 460	351 724	369 079
Index	100	78	75	101	106
Y/Y trend		- 22	- 3	26	5

Source: Eurostat.

- (66) The market share of the Chinese imports, expressed as a percentage of the Community consumption on the free market, decreased from 50 % in 2000 to 40 % in the IP.

Table 4 — Market share of the imports from the PRC

Market share of the imports from the PRC	2000	2001	2002	2003	IP
Percentage of free market	50 %	34 %	37 %	43 %	40 %
Index	100	68	74	85	80
Y/Y trend		- 32	6	11	- 5

Source: Eurostat and verified questionnaire replies of the Community industry.

Price evolution of the imports and undercutting

- (67) The average CIF Community-frontier import price from the PRC increased by 14 % between 2000 and 2002 but decreased sharply between 2002 and the IP, by 22 %. Over the whole period considered, it decreased by 10 % and reached EUR 140 per tonne in the IP.

Table 5 — Average import price from the PRC

Average import price from the PRC	2000	2001	2002	2003	IP
EUR/tonne	156	184	179	138	140
Index	100	118	114	88	90
Y/Y trend		18	- 3	- 26	2

Source: Eurostat.

- (68) The Commission has examined whether the exporting producers in the country concerned undercut the prices of the Community industry during the IP. In order to bring prices to a comparable basis, the Community producer's prices have been adjusted to an ex-works level.
- (69) The undercutting margin found on this basis was 7,6 %.

3. Economic situation of the Community industry

- (a) *Analysis of the factors pertinent to the entire activity, including captive use*

Production, production capacity and capacity utilisation

- (70) The Community industry's production increased by 11 % during the period considered, following to some extent the trend of the Community consumption. The decrease of the production by three percentage points in 2002 coincided with the contraction of the consumption of DBM in the Community market.

Table 6 — Production volume

Production volume	2000	2001	2002	2003	IP
Index	100	101	98	108	111
Y/Y trend		1	- 3	10	3

Source: Verified questionnaire replies of the Community industry.

- (71) During the period considered, the production capacity of the Community industry first remained stable between 2000 and 2002 and then increased by 3 % between 2002 and the IP.

Table 7 — Production capacity

Production capacity	2000	2001	2002	2003	IP
Index	100	100	100	103	103
Y/Y trend		0	0	3	0

Source: Verified questionnaire replies of the Community industry.

- (72) During the period considered, the capacity utilisation followed the same trend as the Community production and consumption. Capacity utilisation decreased by 2 % between 2000 and 2002 but increased after 2002, so that over the period considered it increased by 7 %.

Table 8 — Capacity utilisation

Capacity utilisation	2000	2001	2002	2003	IP
Index	100	101	98	105	107
Y/Y trend		1	- 3	7	2

Source: Verified questionnaire replies of the Community industry.

Cash flow

- (73) The cash flow fluctuated during the period considered. However, it remained overall at the same level (- 1 %).

Table 9 — Cash flow

Cash flow	2000	2001	2002	2003	IP
Index	100	127	103	127	99
Y/Y trend		27	- 25	25	- 28

Source: Verified questionnaire replies of the Community industry.

Investments and ability to raise capital

- (74) Investments decreased by around 23 % during the period considered. However, they remained significant and represented during the IP about 10 % of the total turnover of the Community industry.

Table 10 — Investments

Investments	2000	2001	2002	2003	IP
Index	100	141	79	59	77
Y/Y trend		41	- 62	- 20	18

Source: Verified questionnaire replies of the Community industry.

- (75) The Community industry was not found to be experiencing difficulties in raising capital during the period considered.

Stocks

- (76) The table below shows that stocks increased significantly during the period considered by 88 %. However, in absolute terms this increase is not significant.

- (77) The ratio of stocks volume to production volume, which attained 4 % in 2000, increased to around 7 % in the IP.

Table 11 — Stocks

Stock volumes	2000	2001	2002	2003	IP
Index	100	137	137	146	188
Y/Y trend		37	0	9	42

Source: Verified questionnaire replies of the Community industry.

Employment, productivity and labour cost

- (78) After an increase of 8 % between 2000 and 2002, employment decreased in 2003 and in the IP. Overall, it decreased by 4 % during the period considered.

Table 12 — Employment

Number of employees	2000	2001	2002	2003	IP
Index	100	106	108	104	96
Y/Y trend		6	2	- 4	- 8

Source: Verified questionnaire replies of the Community industry.

- (79) Against the background of the increase in production and the decrease in employment, productivity increased during the period considered by 15 %.

Table 13 — Productivity

Productivity (tonnes/employee)	2000	2001	2002	2003	IP
Index	100	96	91	104	115
Y/Y trend		- 4	- 5	13	11

Source: Verified questionnaire replies of the Community industry.

- (80) During the period considered the labour costs of the Community industry gradually increased. The total increase between 2000 and the IP was 32 %.

Table 14 — Wages

Wages	2000	2001	2002	2003	IP
Index	100	106	111	118	132
Y/Y trend		6	5	7	14

Source: Verified questionnaire replies of the Community industry.

(b) Analysis of the factors pertinent for the free-market activity

Sales volume, captive use and sales prices

- (81) The Community industry's sales to unrelated customers on the Community market decreased by 9 % between 2000 and 2003, but increased during the IP, so that it overall increased by 3 % during the period considered.

Table 15 — Community industry's sales to unrelated parties

Community industry's sales to unrelated parties	2000	2001	2002	2003	IP
Index	100	91	91	91	103
Y/Y trend		- 9	0	0	12

Source: Verified questionnaire replies of the Community industry.

- (82) During the period considered the average sales prices prevailing on the free Community market of DBM charged by the Community industry gradually increased. The total increase between 2000 and the IP was 25 %.

Table 16 — Community industry's sales price

Community industry's sales price	2000	2001	2002	2003	IP
Index	100	112	117	119	125
Y/Y trend		12	5	2	6

Source: Verified questionnaire replies of the Community industry.

Market share

- (83) The overall market share held by the Community industry decreased from 26 % in 2000 to 20 % in the IP.

Table 17 — Market share of the Community industry's sales

Market share of the Community industry's sales	2000	2001	2002	2003	IP
Percentage of free market	26 %	21 %	23 %	20 %	20 %
Index	100	80	90	77	78
Y/Y trend		- 20	10	- 13	1

Source: Eurostat and verified questionnaire replies of the Community industry.

Growth

- (84) Whilst Community consumption increased by 32 % during the period considered, the volume of Community industry sales on the free market increased by only 3 %, and the Community industry market share on the free market decreased by 6 %. Thus, the growing trend of the Community consumption was not followed by a corresponding increase in Community industry sales.

Profitability and return on investments

- (85) During the period considered profitability expressed as a percentage of net sales value to unrelated parties developed as follows:

Table 18 — Profitability

Profitability	2000	2001	2002	2003	IP
Percentage of net sales value	– 3,1 %	0 %	3,9 %	8,4 %	11,4 %

Source: Verified questionnaire replies of the Community industry.

- (86) The Community industry's profitability followed the same trend as Community industry sales prices. After a loss in 2000 and a break even year with no profit or loss in 2001, the Community industry made profit in 2002 and in the following years. The profitability then increased from 3,9 % in 2002 to 11,4 % in the IP. This was mainly due to a switch to the production of products with a higher added value. Over the period considered, the average profit made by the Community industry was 4,5 %.

- (87) Return on investments, expressed as profits/losses in relation to the net book value of investments, followed the same trend as the profitability.

Table 19 — Return on investments

Return on investments	2000	2001	2002	2003	IP
%	– 2,9 %	0 %	3,2 %	7,8 %	11,5 %
Index	– 100	– 1	114	275	403
Y/Y trend		99	115	161	128

Source: Verified questionnaire replies of the Community industry.

4. Effect of other factors

Export activity of the Community industry

- (88) The Community industry exports of DBM fluctuated during the period considered. However, overall, they remained at the same level in the IP as in 2000 (slight decrease of 1 %). These exports still amounted to around 40 % of the total production of the Community industry during the IP.

Table 20 — Exports of the Community industry

Exports of the Community industry	2000	2001	2002	2003	IP
Index	100	104	95	113	99
Y/Y trend		4	– 9	18	– 13

Source: Verified questionnaire replies of the Community industry.

Import volumes and prices from other third countries

- (89) Import volumes of DBM into the Community from countries other than the PRC developed as follows:

Table 21 — Imports from other third countries

Tonnes	2000	2001	2002	2003	IP
Australia	49 032	66 582	42 599	68 090	63 043
North Korea	26 660	71 385	36 614	38 245	35 172
Turkey	43 625	40 463	33 446	22 625	42 763
Brazil	31 831	25 916	25 872	25 610	39 017
Russia	2 520	12 928	8 107	9 773	24 380
South Korea	0	1 528	1 202	1 879	4 893
All others	10 376	139 240	129 401	136 807	149 284
Total third countries	164 044	358 042	277 240	303 027	358 552
Index	100	218	169	185	219
Y/Y trend		118	– 49	16	34

Source: Eurostat and market information provided by the applicant producers.

- (90) The total import volumes of DBM from third countries other than the PRC more than doubled during the period considered, increasing from 164 044 tonnes in 2000 to 358 552 tonnes in the IP. The major exporters to the Community have been Australia, North Korea, Turkey, Brazil, Russia and South Korea.
- (91) The market share of imports originating in the third countries other than the PRC increased by 15,6 percentage points during the period considered and represented 39,3 %.

Table 22 — Market share of imports from other third countries

Market share of imports from other third countries	2000	2001	2002	2003	IP
Percentage of free market	23,7 %	45,2 %	39,5 %	37,1 %	39,3 %
Index	100	191	167	157	166
Y/Y trend		91	– 24	– 10	9

Source: Eurostat and market information provided by the applicant producers.

- (92) The average import prices from other third countries were higher than those of the Community industry during the IP except the import prices from North Korea, Russia and South Korea. It has to be noted that imports of the product concerned from those three countries represented only 8,9 % of all imports to the Community during the period considered, with a cumulated market share in the Community of 7,1 %, compared to the market share of 40 % of the PRC.

Table 23 — Imports into the Community from other third countries — prices

Imports into the Community from other third countries (EUR)	2000	2001	2002	2003	IP
Australia	235	228	225	213	183
North Korea	111	128	128	109	128
Turkey	164	181	184	160	169
Brazil	182	180	200	201	188
Russia	122	132	133	119	114
South Korea	N/A	139	154	126	132
Others	178	223	186	196	229

Source: Eurostat.

- (93) On the basis of the above, it is considered that imports of the product concerned from other third countries did not have any significant impact on the economic situation of the Community industry during the period considered.

5. Conclusion on the situation of the Community industry

- (94) The measures in force have led to a partial recovery of the Community industry since 2000. In parallel to an increase in the total Community consumption, the Community's industry managed to increase the sales volumes and to raise the prices. Economic factors such as production, production capacity and capacity utilisation, profitability, return on investments and productivity also showed a positive development. These indicators demonstrate that the Community industry made efforts to improve its competitiveness with some success: Community industry sales in the Community have been profitable since 2002.
- (95) On the other hand, other indicators showed a negative development: market share of the Community industry on the free market and investments decreased, whereas stocks, unit cost of production and labour costs increased. It can nevertheless be concluded that, overall, the situation of the Community industry has substantially improved during the period considered, even if the recovery found is partial. Indeed, this recovery of the Community industry remains vulnerable, *inter alia*, as a result of the increasing price pressure by dumped imports from the PRC.

- (96) In view of the tentative recovery of the Community industry, the continuation of injury caused by dumped imports could not be established. Therefore, it was examined whether there would be recurrence of injury if the measures lapsed.

G. LIKELIHOOD OF RECURRENCE OF INJURY

- (97) With regard to the likely effect on the situation of the Community industry should the measures in force expire, a number of factors were taken into consideration together with the elements summarised above.
- (98) The comparison between imports from the PRC and other third countries into the Community has shown important differences in prices. Import prices from other third countries, except Russia, North Korea and South Korea, were higher than Community industry's sales prices during the period considered, while the average price of dumped Chinese imports decreased by 10 %.
- (99) As regards the relatively low prices of imports from Russia, North Korea and South Korea, their average export prices to the EC decreased less in proportion than those of Chinese exports to the EC. Furthermore, the volumes imported from these countries remained very low compared with Chinese imports. The cumulated market share of Russia, North Korea and South Korea was 7,1 % during the IP, *i.e.* less than a fifth of the market share of the PRC. Therefore, during the IP the economic effect of Chinese imports on the Community DBM market by far outweighed the effect of imports from Russia, North Korea and South Korea, and nothing indicates that this will change in the future.

(100) As already described in more detail in recitals 45 to 50, if the anti-dumping measures were allowed to expire, it is likely that imports at dumped prices of the product concerned from the PRC would increase and prices would decrease for the following reasons:

— the PRC has considerable spare production capacity and has the largest magnesite ore resources in the world,

— the trends of prices and volumes during the period considered already show a likely further decrease in prices and increase in volume,

— the prices which Chinese exporters might charge in the absence of anti-dumping measures are potentially very low if it is considered that they include the export licence fee,

— the Community market is attractive in terms of volume, and, since exports to third countries are unlikely to increase to a significant extent, Chinese exporters would likely, if the current measures were allowed to expire, attempt to increase their market share in the EC by further decreasing their export price.

(101) It can be concluded that the considerable volume of Chinese imports at low and decreasing prices have exerted an increasing pressure on the Community DBM market, which would in all likelihood continue to intensify, should the anti-dumping measures lapse, as import prices from the PRC would likely decrease whilst volumes of export would rise. The surge of imports from the PRC would very likely result in a further decrease in the Community industry's market share, and given the parallel evolution of the Community industry sales prices and profitability during the period considered, the increased pressure on prices would almost certainly result in a decrease in the Community industry's profit. The other indicators would most likely also develop negatively once the Community industry loses sales and faces substantially decreasing prices.

(102) Furthermore, there does not appear to be other factors likely to cause injury to the Community industry. Imports from other countries were either at higher prices than those from the PRC, or the volumes

concerned were much smaller, and there is no indication that this would change in the future.

(103) In the light of the above, it is concluded that allowing the measures to lapse would in all likelihood result in a recurrence of injury to the Community industry caused by the dumped imports.

H. COMMUNITY INTEREST

1. Introduction

(104) According to Article 21 of the basic Regulation, it was examined whether a prolongation of the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an appreciation of all the various interests involved, *i.e.* those of the Community industry, the importers and traders as well as the users of the product concerned.

(105) In order to assess the likely impact of a continuation or non-continuation of the measures, the Commission requested information from all interested parties mentioned above. The Commission sent questionnaires to 18 importers and 17 users of the product concerned. No importers replied to the questionnaires, even though two of them made written representations. As to the users, one of them partially replied to the questionnaire.

(106) It should be recalled that, in the previous investigation, the adoption of measures was considered not to be against the interest of the Community. Furthermore, it should be noted that the present investigation is a second expiry review, thus analysing a situation in which anti-dumping measures are already in place. Consequently, the timing and nature of the present investigation allows the assessment of any undue negative impact the current anti-dumping measures may have had in the past on the parties concerned.

(107) On this basis it was examined, whether, despite the conclusions on continuation of dumping and likelihood of recurrence of injury, compelling reasons exist which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.

2. Interests of the Community industry

- (108) It is recalled that it has been established that without maintaining the anti-dumping measures, dumping is likely to continue with a high and increasing dumping margin, resulting in a deterioration of the situation of the Community industry, which is still not in a stable, fully recovered condition. On the other hand, continuation of the measures should help the Community industry to recover fully and avoid further injury. Furthermore, the efforts made by the Community industry to rationalise its production and enhance its competitiveness, and the profit made by the Community industry in the last three years of the period considered, show that the Community industry is viable and competitive.
- (109) Given the above, it appears necessary to prolong the existing measures in order to avoid the adverse effects of dumped imports, which could endanger the recovery process of the Community industry and ultimately its very existence, and consequently a number of jobs. It has also to be considered that if the Community industry disappears, there will also be a negative impact on the downstream industry, since the latter will see a significant reduction in its choice of suppliers.

3. Interests of importers

- (110) As stated above, none of the unrelated importers replied to the questionnaire sent by the Commission. The lack of cooperation is in itself an indication that this sector did not suffer any substantial negative effect on its economic situation as a result of the imposition of measures. This is confirmed by the fact that the importers continued to trade the product concerned in significant volumes, even raising the volume imported during the period considered.
- (111) It is therefore concluded that the economic situation of the importers of the product concerned has not been negatively influenced materially by the imposition of the anti-dumping measures currently in force. On the same grounds, it is also unlikely that a continuation of the measures would lead to a deterioration of their economic situation in the future.

4. Interests of users

- (112) The users of the product concerned, i.e. the downstream industry, are mainly the refractories' producers. As stated above, only one out of the 17 users to which the questionnaire was sent by the Commission's services replied, and only partially. In the same way as for the importers, the low level of cooperation is in itself an indication that this sector did not suffer any substantial negative effect on its economic situation as a result of the measures. Although the representativeness of the cooperating company for the downstream industry is limited, since it purchased less than 5 % of the total DBM imported

from the PRC during the IP, the impact of the measures in force on its situation was evaluated.

- (113) In this respect, the investigation established that the cooperating user continued to import DBM originating from the PRC in spite of the measures in force. These measures therefore did not constitute a deterrent for the producers of refractories leading them to change their sources of supply. While DBM constitutes a non negligible, albeit small, part of the cost of production of refractories, the Chinese import prices were still comparatively low, and they even decreased on average during the period considered. Thus, it can be concluded that the anti-dumping measures had no significant negative influence on the cost situation and on the profitability of the users of the product concerned.
- (114) The cooperating user submitted that, although on the short term maintaining the anti-dumping measures would not have a significant influence on its situation, on the medium or long term it could lead to more and more refractories being produced outside the EC and imported into the EC instead of the raw material, DBM.
- (115) In this respect, it has to be reminded that, as shown above, the result of the anti-dumping measures in force has not been to close the Community market to imports of DBM, but rather to combat the unfair trade practices and to remedy to some extent the distorting effects of dumped imports. Ensuring a level playing field for the Community industry of DBM also guarantees a higher degree of competition between various suppliers of DBM, including Chinese exporters of DBM, on the EC market.
- (116) Moreover, it was found that exports from the PRC were made at higher prices to some other major markets, including the US, than to the Community. The measures therefore do not appear to have caused the import prices into the Community to rise above the import prices to other third countries. The claim that the continuation of anti-dumping measures would affect competitiveness on other markets was therefore rejected.
- (117) It was therefore concluded that, if the measures were maintained at the same level, this would not imply any deterioration of the situation of the users.

5. Conclusion on Community interest

- (118) The investigation has shown that the existing anti-dumping measures have allowed the Community industry to recover to a certain extent. If measures were allowed to lapse, this would endanger the recovery process, and possibly lead to the disappearance of the Community industry. Therefore, the continuation of measures is in the interest of the Community industry.

(119) Furthermore, in the past, the existing measures appeared not to have any significant negative effects on the economic situation of users and importers. Any price increase, if at all, for users resulting from the imposition of anti-dumping measures, on the basis of the information collected during the current investigation, does not appear to be disproportionate when compared to the benefit to the Community industry achieved by the removal of the trade distortion caused by the dumped imports, as well as to the benefit for users of continued competition between different suppliers of DBM on the EC market. Therefore, it is concluded that there are no compelling reasons against the prolongation of the existing anti-dumping measures.

I. ANTI-DUMPING MEASURES

(120) All parties concerned have been informed of the essential facts and considerations on the basis of which the maintenance of the existing measures is proposed. They have been granted a period within which to make representations subsequent to disclosures. No comments were received which were such as to change the above conclusions.

(121) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the variable anti-dumping duties in combination with a minimum price of EUR 120 per tonne on imports of DBM originating in the PRC imposed by Regulation (EC) No 360/2000, should be maintained,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of dead-burned magnesias falling within CN code 2519 90 30 originating in the People's Republic of China.

2. The amount of the duty shall be

(a) the difference between the minimum import price of EUR 120 per tonne and the net, free-at-Community frontier price, before duty, in all cases where the latter is:

— less than the minimum import price, and

— established on the basis of an invoice issued by an exporter located in the People's Republic of China directly to an unrelated party in the Community (Taric additional code A439).

(b) zero, if the net, free-at-Community-frontier price, before duty, is established on the basis of an invoice issued by an exporter located in the People's Republic of China directly to an unrelated party in the Community and equal to or higher than the minimum import price of EUR 120 per tonne (Taric additional code A439).

(c) equal to an *ad valorem* duty of 63,3 % in all other cases not falling under subparagraph (a) and (b) above (Taric additional code A999).

3. In cases where the anti-dumping duty is established according to subparagraph 2(a) of Article 1 and where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽¹⁾, the minimum import price set out above shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable. The duty payable will then be equal to the difference between the reduced minimum import price and the reduced net, free-at-Community-frontier price, before customs clearance.

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

Article 2

This Regulation shall enter into force on the day following 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, 5 May 2006.

For the Council
The President
K.-H. GRASSER

⁽¹⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 402/2006 (OJ L 70, 9.3.2006, p. 35).

COMMISSION REGULATION (EC) No 717/2006**of 11 May 2006****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 12 May 2006.

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

Done at Brussels, 11 May 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 11 May 2006 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	180,2
	204	97,2
	212	153,3
	999	143,6
0707 00 05	052	126,0
	628	155,5
	999	140,8
0709 90 70	052	113,3
	204	25,1
	999	69,2
0805 10 20	052	46,6
	204	33,5
	212	69,6
	220	40,8
	400	40,9
	448	50,4
	624	54,4
0805 50 10	999	48,0
	388	50,9
	528	56,6
	624	61,2
0808 10 80	999	56,2
	388	87,5
	400	138,1
	404	98,2
	508	79,4
	512	82,4
	524	84,4
	528	97,3
	720	91,1
	804	106,7
	999	96,1

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 718/2006**of 11 May 2006****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 9 May 2006.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the permanent tender opened by Regulation (EC) No 581/2004, for the tendering period ending on 9 May 2006, 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 12 May 2006.

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

Done at Brussels, 11 May 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 90, 27.3.2004, p. 64. Regulation as last amended by Regulation (EC) No 409/2006 (OJ L 71, 10.3.2006, p. 5).

⁽³⁾ OJ L 90, 27.3.2004, p. 58. Regulation as amended by Regulation (EC) No 1814/2005 (OJ L 292, 8.11.2005, p. 3).

ANNEX

(EUR/100 kg)

Product	Export refund Code	Maximum amount of export refund for export to the destinations referred to in the second subparagraph of Article 1(1) of Regulation (EC) No 581/2004
Butter	ex 0405 10 19 9500	104,00
Butter	ex 0405 10 19 9700	109,00
Butteroil	ex 0405 90 10 9000	130,00

COMMISSION REGULATION (EC) No 719/2006**of 11 May 2006****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 9 May 2006.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the permanent tender opened by Regulation (EC) No 582/2004, for the tendering period ending on 9 May 2006, the maximum amount of refund for the product and destinations referred to in Article 1(1) of that Regulation shall be 7,00 EUR/100 kg.

Article 2

This Regulation shall enter into force on 12 May 2006.

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

Done at Brussels, 11 May 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 90, 27.3.2004, p. 67. Regulation as last amended by Regulation (EC) No 409/2006 (OJ L 71, 10.3.2006, p. 5).

⁽³⁾ OJ L 90, 27.3.2004, p. 58. Regulation as amended by Regulation (EC) No 1814/2005 (OJ L 292, 8.11.2005, p. 3).

COMMISSION REGULATION (EC) No 720/2006**of 11 May 2006****fixing the maximum export refund on barley in connection with the invitation to tender issued in
Regulation (EC) No 1058/2005**

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 1058/2005 ⁽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 from 5 to 11 May 2006, pursuant to the invitation to tender issued in Regulation (EC) No 1058/2005, the maximum refund on exportation of barley shall be 5,95 EUR/t.

Article 2

This Regulation shall enter into force on 12 May 2006.

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

Done at Brussels, 11 May 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 174, 7.7.2005, p. 12.

⁽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 721/2006**of 11 May 2006****fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 1059/2005**

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 common wheat to certain third countries was opened pursuant to Commission Regulation (EC) No 1059/2005 ⁽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 from 5 to 11 May 2006, pursuant to the invitation to tender issued in Regulation (EC) No 1059/2005, the maximum refund on exportation of common wheat shall be 6,20 EUR/t.

Article 2

This Regulation shall enter into force on 12 May 2006.

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

Done at Brussels, 11 May 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 174, 7.7.2005, p. 15.

⁽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).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 19 April 2006

establishing standard forms for the transmission of applications and decisions pursuant to Council Directive 2004/80/EC relating to compensation to crime victims

(2006/337/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims ⁽¹⁾, and in particular Article 14 thereof,

After consulting the Committee established by Article 15(1) of the Directive 2004/80/EC,

Whereas:

- (1) Directive 2004/80/EC requires Member States to introduce a system of cooperation to facilitate access to compensation in cases where a crime is committed in a Member State other than that of the victim's residence by 1 January 2006.

- (2) The standard forms to be used for the transmission of applications for compensation and decisions relating to applications for compensation in such cross-border situations should be established,

HAS DECIDED AS FOLLOWS:

Sole Article

1. The standard form for the transmission of applications for compensation provided for in Article 6(2) of Directive 2004/80/EC shall be as set out in Annex I.
2. The standard form for the transmission of decisions on applications for compensation provided for in Article 10 of Directive 2004/80/EC shall be as set out in Annex II.

Done at Brussels, 19 April 2006.

For the Commission

Franco FRATTINI

Vice-President

⁽¹⁾ OJ L 261, 6.8.2004, p. 15.

ANNEX I

FORM FOR THE TRANSMISSION OF AN APPLICATION FOR COMPENSATION IN CROSS-BORDER SITUATIONS
(Article 6(2) of Directive 2004/80/EC)

1. Case reference:**2. Language of the application and any supporting documentation** (Article 6(3) of Directive 2004/80/EC):**3. Application transmitted by:**

Details of the assisting authority (transmitting authority):

Name of the authority:

Member State:

Contact person or the department responsible for handling the matter:

Address:

Telephone (including code):

Fax:

E-mail:

4. To:

Details of the deciding authority (receiving authority):

Name of the authority:

Member State:

Address:

Telephone (including code):

Fax:

E-mail:

5. Details of the person applying for compensation:

Family name:

First Name:

Sex:

Date of birth:

Nationality:

Address and postcode:

Place where the person habitually lives (if different from place of residence):

Telephone (including code):

Fax:

E-mail:

Bank details (For transfers, the BIC must be provided instead of the bank code, and the IBAN must be given instead of the account number):

BIC:	IBAN:	Name of bank:	Contact abroad:	
------	-------	---------------	-----------------	--

If applicable, represented by:

6. Details of the injured person if that person is not the applicant:

Family name:

First Name:

Sex:

Date of birth:

Nationality:

Address and postcode:

Place where the person habitually lives (if different from place of residence):

Telephone number (including code):

Fax:

E-mail:

Done at:

Date:

By:

(signature and/or stamp)

7. List of supporting documents annexed

ACKNOWLEDGEMENT OF RECEIPT**(Article 7 of Directive 2004/80/EC) (*)***To be sent to the assisting authority and to the applicant***The deciding authority:**

Name of the authority:

Member State:

Case reference:

Contact person or the department responsible for handling the matter:

Address:

Telephone (including code):

Fax:

E-mail:

If possible, an indication of the approximate time by which a decision on the application will be made (Article 7 (c) of Directive 2004/80/EC):**This acknowledges the receipt of the application transmitted by the assisting authority:**

Name of the authority:

Member State:

Case reference:

Date of receipt:

Done at:

Date:

By:

(Signature and/or stamp):

(*) The deciding authority may use a similar form or any other way of acknowledgement of receipt provided that it fulfils the obligations under Article 7 of the Directive.

ANNEX II

FORM FOR THE TRANSMISSION OF A DECISION ON AN APPLICATION FOR COMPENSATION IN
CROSS-BORDER SITUATIONS

(Article 10 of Directive 2004/80/EC)

1. **Case reference:**
2. **Date of the decision:**
3. **Language of the decision:**
4. **Decision transmitted by:**

Details of the deciding authority (transmitting authority):

Name of the authority:

Member State:

Contact person or the department responsible for handling the matter:

Address:

Telephone (including code):

Fax:

E-mail:

5. **To:**

Details of the assisting authority (receiving authority):

Name of the authority:

Member State:

Contact person or the department responsible for handling the matter:

Address:

Telephone (including code):

Fax:

E-mail:

6. **And to:**

Details of the applicant:

Name of the applicant:

Address:

Telephone (including code):

Fax:

E-mail:

Legal representative (if applicable):

7. Details of the Decision:

NB: This information is provided without prejudice to the text of the decision

a) Summary:

b) Information about the possibility to appeal, competent authority and deadlines:

c) Other information or the action required by the applicant (to be completed where necessary):

Done at:

Date:

By:

(signature and/or stamp)

COMMISSION DECISION

of 8 May 2006

authorising the Republic of Poland to prohibit on its territory the use of certain varieties of maize listed in the Common catalogue of varieties of agricultural plant species, pursuant to Council Directive 2002/53/EC

*(notified under document number C(2006) 1790)***(Only the Polish text is authentic)**

(2006/338/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2002/53/EC of 13 June 2002 on the Common catalogue of varieties of agricultural plant species ⁽¹⁾, and in particular Article 16(2)(b) thereof,

Whereas:

(1) The Commission, in accordance with Article 17 of Directive 2002/53/EC, published in the C series of the *Official Journal of the European Union*, in the Common catalogue of varieties of agricultural plant species, certain varieties of maize.

(2) Pursuant to Article 16(1) of the said Directive, Member States are to ensure that, with effect from the publication referred to in Article 17, seeds of varieties accepted in accordance with that Directive or in accordance with the principles corresponding to those of that Directive are not subject to any marketing restrictions relating to the variety.

(3) On 24 June 2005, the Commission received from the Republic of Poland a request for the prohibition, on the basis of Article 16(2)(b) of Directive 2002/53/EC, of the use and placing on the market of seed material from varieties of maize which are not suitable for cultivation in Poland. This request followed one concerning genetically modified varieties of maize which will be the subject of a separate decision.

(4) On 9 December 2005, Poland sent to the Commission a list of varieties of maize it considered not suitable for

cultivation in Polish conditions. This list was completed by the Polish authorities in a letter of 9 January 2006. Poland requests the authorisation to prohibit all the varieties of maize of the list from its territory for an indefinite period of time.

(5) Having regard to the last sentence of Article 16(2)(b), which states that any such request by a Member State must be lodged before the end of the third calendar year following that of acceptance of the variety concerned in the Common catalogue, the request made by Poland in 2005 could not cover the varieties accepted in the Common catalogue before 1 January 2002.

(6) From the information available for the varieties concerned, it is well known that they are not suitable for cultivation in any part of Poland because of their too high maturity class which is at least of 350 FAO index or equivalent maturity class. The climatic and agricultural factors concerned provide a permanent obstacle to cultivating these varieties in Poland.

(7) Under these circumstances, the application of the Republic of Poland should be granted on the basis of Article 16(2)(b) for the varieties of maize listed in this decision, but refused for those varieties listed in the Common catalogue before 1 January 2002.

(8) In order to allow the Commission to inform the other Member States and update the Common catalogue of varieties of agricultural plant species provided for in Directive 2002/53/EC, Poland should be required to inform the Commission when it makes use of the authorisation granted by this decision.

(9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

⁽¹⁾ OJ L 193, 20.7.2002, p. 1. Directive as amended by Regulation (EC) 1829/2003 of the European Parliament and of the Council (OJ L 268, 18.10.2003, p. 1).

HAS ADOPTED THIS DECISION:

the date from which it makes use of the authorisation given under Article 1.

Article 1

The Republic of Poland is authorised to prohibit the use, in any part of its territory, of the varieties of maize listed in the Annex to this Decision.

Article 4

This Decision is addressed to the Republic of Poland.

Article 2

The remainder of the request by the Republic of Poland, covering varieties of maize listed in the Common catalogue before 1 January 2002, is refused.

Done at Brussels, 8 May 2006.

Article 3

In order to allow the Commission to inform the other Member States, the Republic of Poland shall notify the Commission of

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX

1. Abelter	39. Appyver	77. Casado	115. DK 434
2. Abilio	40. Archimed	78. Célest SUMO	116. DK 443
3. Acarro	41. Arkam	79. Célest	117. DK 454
4. Acka	42. Árpád	80. Celestis	118. DK 471
5. Actinio	43. Arrazas	81. Centis 350	119. DK 471 IMI
6. Adelin	44. Arrius	82. Ceslav	120. DK 477
7. Adenia	45. Arzano	83. Cestan 425	121. DK 523
8. Agosto	46. Asturial	84. Chalcao	122. DK 526
9. Agrister	47. Ász	85. Changi CS	123. DK 527
10. Akira	48. Aucaria	86. Charron	124. DK 557
11. Albeniz	49. Audistar	87. Chillan	125. DK 573
12. Alegria	50. AW 641	88. Chimene	126. DK Cesar
13. Alexander	51. Awax 580	89. Ciad	127. DK277
14. Aligot	52. Azema	90. Clementis	128. DKC 5211
15. Alimor	53. Azzurro	91. Codifirst	129. DKC3617
16. Alinea	54. Balzac	92. Codiroc	130. DKC4604
17. Alisun	55. Bambino	93. Codisil	131. DKC4622
18. Allater	56. Baobab	94. Codistar	132. DKC4626
19. Almeda	57. Baranya	95. Coppelia	133. DKC4778
20. Alonzo	58. Bardenas	96. Corinthe	134. DKC4845
21. Alpaga	59. Belisama	97. Corona	135. DKC4851
22. Alpha	60. Bella TC	98. Coventry	136. DKC4915
23. Alpistar	61. Biancama	99. Crudo	137. DKC4950
24. Alumeo	62. Biotop	100. Cruzado	138. DKC5011
25. Alyscan	63. Bogát	101. Csilla	139. DKC5041
26. Alyssa	64. Bora	102. CSL516	140. DKC5050
27. Amazon	65. Borja	103. Cuartal CL	141. DKC5143
28. Ambasad	66. Boydur	104. Cuartal Waxy	142. DKC5150
29. Ametiszt	67. Briantis	105. Dante	143. DKC5303
30. Ammon	68. Bronx	106. Darling	144. DKC5353
31. Anader	69. Bukari	107. Debreceni SC 351	145. DKC5434
32. Anelka	70. Buzet	108. Debreceni TC 382	146. DKC5442
33. Anetta	71. Caixa	109. Deheb	147. DKC5542
34. Anjou 299	72. Cambio	110. Derkou	148. DKC5555
35. Anjou 441	73. Canossa	111. Dharma	149. DKC5560
36. Antonius	74. Cantabris	112. Dina	150. DKC5735
37. Apex	75. Canto	113. Dior	151. DKC5783
38. Apollo	76. Caporal	114. DK 386	152. DKC5847

153. DKC5856	192. Durali CS	231. Ferouz	270. Goldflorencia
154. DKC5943	193. Dylan	232. Figueras	271. Goldfrank
155. DKC6006	194. Edistar	233. Filia	272. Goldiego
156. DKC6011	195. Eiffel	234. Fiorinis	273. Goldimax
157. DKC6022	196. Elixir	235. FMB0232	274. Goldinter
158. DKC6040	197. Ella	236. Foxtro	275. Goldistal
159. DKC6142	198. Entri CS	237. Frontal	276. Goldixos
160. DKC6203	199. Epila	238. Funni	277. Goldjane
161. DKC6309	200. Eric	239. Furio Sumo	278. Goldjulia
162. DKC6348	201. Erika	240. Fusion	279. Goldkim
163. DKC6417	202. ES Acuerdo	241. Galeon	280. Goldkiwi
164. DKC6418	203. ES Aficion	242. Galgacorn	281. Goldland
165. DKC6441	204. ES Antania	243. Gallego	282. Goldlord
166. DKC6455	205. ES Archipel	244. Garabi CS	283. Goldman
167. DKC6457	206. ES Arrabal	245. Garonis Waxy	284. Goldmarian
168. DKC6515	207. ES Arroyo	246. Gavilan	285. Goldmatrix
169. DKC6521	208. ES Baila	247. Gazda MTC	286. Goldmaxim
170. DKC6528	209. ES Balaton	248. Geyser	287. Goldmedal
171. DKC6530	210. ES Beguin	249. Gibsi	288. Goldmichel
172. DKC6535	211. ES Behobie	250. Goldaffe	289. Goldmistrall
173. DKC6610	212. ES Bilal	251. Goldalbi	290. Goldolivia
174. DKC6644	213. ES Bishop	252. Goldalex	291. Goldorac
175. DKC6652	214. ES Bocuse	253. Goldami	292. Goldpatrick
176. DKC6653	215. ES Borotra	254. Goldandy	293. Goldplus
177. DKC6660	216. ES Break	255. Goldarielle	294. Goldpollen
178. DKC6710	217. ES Brindis	256. Goldblue	295. Goldposter
179. DKC6749	218. ES Bronca	257. Goldbrando	296. Goldragon
180. DKC6810	219. ES Bubka	258. Goldbull	297. Goldrailer
181. DKC6818	220. ES Burkina	259. Goldelfia	298. Goldrocky
182. DKC6819	221. ES Littoral	260. Goldenver	299. Goldsander
183. DKC6841	222. ES Nutriplus	261. Goldexel	300. Goldsix
184. DKC6842	223. ES Paolis	262. Goldextra	301. Goldstorm
185. DKC6843	224. Evelina	263. Goldfaber	302. Goldtom
186. DKC6854	225. Evelina IT	264. Goldfalcon	303. Goldweb
187. Dorika	226. Evolia	265. Goldfast	304. Goldwest
188. Draft	227. Exalto	266. Goldfenix	305. Goldwin
189. Dráva	228. Fakirus	267. Goldfert	306. Goldyork
190. Dumboa	229. Feiri	268. Goldfinger	307. Góré
191. Duplo	230. Felike	269. Goldflash	308. Grecale

309. Grip	348. Kelving	387. Kuadro	426. Liza
310. Gruni CS	349. Kemer	388. Kubrick	427. Loxxam
311. Guadalquivir	350. Kent	389. Kudos	428. Lucero
312. Gutwein 2553	351. Keplero	390. Kumin	429. Luciana
313. Gutwein 2605	352. Kermess	391. Kursus	430. Ludovo
314. Hajnal	353. Kincs	392. Kuxxoá	431. Lugano
315. Helen	354. Kiskun 449	393. KWS 2376	432. Mahawax
316. Horus	355. Kiskun 4532	394. KWS 379	433. Mahora
317. Horus CL	356. Kiskun DC 4325	395. KWS 459	434. Maibi
318. Hunor	357. Kiskun DC 4430	396. KWS 474	435. Majeste
319. Hypnos CL	358. Kiskun DC 4468	397. KWS0551	436. Manolo
320. Hypnos	359. Kiskun Nora	398. KWS1393	437. Maraton
321. Ida MTC	360. Kiskun SC 297	399. KWS1394	438. Marina
322. Inka	361. Kiskun SC 398	400. KWS1398	439. Mars
323. Iseran	362. Kiskun SC 4390	401. Lacasta	440. Martinic
324. ISH402	363. Kiskun SC 4444	402. Larigal	441. Marusia
325. ISH601	364. Kiskun SC 4451	403. Lazaro	442. Mastri CS
326. Izabella	365. Kiskun SC 4517	404. Ledina	443. Mátra
327. Jázmin	366. Kiskun TC 351	405. Leila	444. Maxima
328. Jazzi CS	367. Kiskun TC 380	406. Leopard	445. Maximmo
329. Jennifer	368. Kiskun TC 4255	407. LG 24.47 waxy	446. Maxxis
330. Jorale	369. Kiskun TC 4361	408. LG 2470	447. Medor
331. Jouvence	370. Kiskun TC 4371	409. LG 2481	448. Mehari
332. Joyyo	371. Kiskun TC 4394	410. LG 2533	449. Meknes
333. Jozefina	372. Kiskun TC 4454	411. LG 3362	450. Melinda
334. Jumper	373. Kiskun TC 4487	412. LG 34.57	451. Mellor
335. Kabey	374. Kiskun TC 4515	413. LG3330	452. Melodis
336. Kabir	375. Kismet	414. LG3409	453. Meridien
337. Kabos	376. Kitty	415. LG3440	454. Micastar
338. Kámasil	377. Klaxon	416. LG3442	455. Mitic
339. Kamil	378. Klimt	417. LG3443	456. Monrovia
340. Kamilla	379. Kodipack	418. LG3458	457. Monsone
341. Kandoo	380. Kompakt	419. LG3472	458. Montello
342. Karate	381. Konsol	420. LG3520	459. Montoni
343. Karedas	382. Korlitia	421. LG3531	460. Mucho
344. Karen	383. Kosha	422. LG3562	461. Murcia
345. Karmental	384. Kratere	423. LG3691	462. Mv 342
346. Karolina	385. Kristallo	424. LG3715	463. Mv 355 DMSC
347. Karrier	386. Krokus	425. Limasil	464. Mv 437

465. Mv 444	504. Palomis	543. PR34B28	582. PR39F04
466. Mv 500	505. Pardi	544. PR34B39	583. PR39T99
467. Mv Majoros	506. Paulinis	545. PR34B97	584. PR39V62
468. Mv MTC 448	507. Petunio	546. PR34D71	585. Prisca
469. Mv TC 434	508. Piroaska	547. PR34G07	586. Prodis
470. Mv TC 514	509. Pixxia	548. PR34G13	587. Profeta
471. MvNK 333	510. Poem	549. PR34G84	588. Profistar
472. Nasdac	511. Poncho	550. PR34G86	589. Promi
473. Nauwax	512. Posadas	551. PR34H31	590. Puccini CS
474. NC 4563	513. Potenza	552. PR34K49	591. Puli
475. NC5500	514. Poxxim	553. PR34M94	592. Quintal
476. Nessi CS	515. PR31G66	554. PR34N16	593. Ranja
477. Netto	516. PR31K18	555. PR34N43	594. Rasa
478. NK Cryso	517. PR31N27	556. PR34N84	595. Rastto
479. NK Pilaro	518. PR31Y43	557. PR34P93	596. Ravel
480. NK Sycora	519. PR32B10	558. PR34W47	597. Ravistar
481. NK Thermo	520. PR32B33	559. PR35D28	598. Raxxia
482. NK Turtop	521. PR32B56	560. PR35M39	599. Readi
483. NKArma	522. PR32D12	561. PR35P21	600. Redel
484. NKAtria	523. PR32D99	562. PR35R57	601. Rekord
485. NKFactor	524. PR32F27	563. PR35T92	602. Reporter
486. NKFox	525. PR32F89	564. PR35Y54	603. Riglos
487. NKNakor	526. PR32H21	565. PR35Y65	604. Rixxer
488. NKStep	527. PR32H57	566. PR36B06	605. RK14
489. NKTago	528. PR32H58	567. PR36D75	606. RK25
490. NKTerra	529. PR32K22	568. PR36H92	607. RK36
491. Noemi	530. PR32T78	569. PR36K20	608. Roano
492. Norma S.C.	531. PR32W86	570. PR36K67	609. Rodellar
493. Novara	532. PR33A46	571. PR36N70	610. Rona
494. Novello	533. PR33A84	572. PR36P85	611. Rosery
495. Novistar	534. PR33D31	573. PR36R10	612. Sabia
496. Nóra	535. PR33H05	574. PR36T58	613. Saeta
497. NX 5206	536. PR33J58	575. PR37B04	614. San Luis
498. Oktan	537. PR33M54	576. PR37K55	615. Sancia
499. Olivia	538. PR33N09	577. PR37K85	616. Sangria
500. Omár	539. PR33P71	578. PR37M81	617. Sanmiguel
501. Ortensia	540. PR33R77	579. PR37M81 IT	618. Sardane
502. Ortowax	541. PR33V15	580. PR38B85	619. Scaila
503. Pacal	542. PR34B19	581. PR38T27	620. Seba

621. Seoul	643. SUM 420	665. Tamara	687. Vanda
622. Sephora	644. SUM 490	666. Tanjuska	688. Varenne
623. Serina	645. Szandra	667. Tavaszi	689. Vasilica
624. Shiva	646. Szarvasi DC 310 S	668. Tékila	690. Vegale
625. Sidonis	647. Szarvasi édes szárú	669. Texxud	691. Velin
626. Silagro	648. Szegedi 331	670. Tikal	692. Venici
627. Silóma	649. Szegedi 455	671. Tilda	693. Vénusz
628. Simbali	650. Szegedi 462	672. Tina	694. Veracruz
629. Sinatra	651. Szegedi 470	673. Tisza	695. Veroni CS
630. Sixtina	652. Szegedi DC 488	674. Titlis	696. Veronika
631. Sopronis	653. Szegedi SC 463	675. Tixxus	697. Viana
632. Soraya	654. Szegedi TC 358	676. Tizona	698. Vic
633. Sperlona	655. Szegedi TC 367	677. Tonachi	699. Viktoria
634. Spinoza	656. Szegedi TC 377	678. Tornado	700. Vilma
635. Squadra	657. Szegedi TC 465	679. Toxxol	701. Virgi
636. Status	658. Szegedi TC 513	680. Trofeo	702. Viridis
637. Stira	659. Szentesi SC 623	681. Tucson	703. Virtuoz
638. Stradi	660. Szentesi TC 390 S	682. Tünde	704. Wendy
639. Stratos	661. Szilvia	683. Türkiz	705. Wexxil
640. SUM 0241	662. Tacca	684. Tuxxeo	706. Windi
641. SUM 0246	663. Tajo	685. Tyrex	707. Wonga
642. SUM 330	664. Talung	686. Valika	708. Zeus

COMMISSION RECOMMENDATION**of 8 May 2006****on the promotion of shore-side electricity for use by ships at berth in Community ports****(Text with EEA relevance)****(2006/339/EC)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211 thereof,

Whereas:

(1) In November 2002 the Commission adopted a Communication to the European Parliament and the Council on a European Union strategy to reduce atmospheric emissions from seagoing ships ⁽¹⁾, which urged port authorities to require, incentivise or facilitate ships' use of land-based electricity while in port.

(2) The European Parliament, in its resolution on the strategy of 4 December 2003 ⁽²⁾, pointed out that the use of land-based electricity in port could be facilitated by the production of a report describing positive examples of these measures, as well as their costs and benefits.

(3) The Council, in its Conclusions on the strategy of 22 December 2003 ⁽³⁾, recognised that not all environmental problems are properly addressed at international level and that, in particular, the contribution of seagoing ships to the concentration of particulate matter and of ozone and its precursors in ambient air needed further consideration.

(4) The Commission, in the context of its Communication 'The Clean Air for Europe (CAFE) programme: Towards a thematic strategy for air quality' ⁽⁴⁾, re-examined the contribution of shipping to the concentration of air pollutants in ambient air and found it to be significant, particularly in port areas. In some port areas, the attainment of air quality standards may be jeopardised by ship emissions.

(5) CAFE found that reducing ship emissions is increasingly cost-effective compared to further measures in other sectors. Most ship pollutant emissions at berth can only be reduced through engine and after-treatment measures or through the use of shore-side electricity.

(6) Ship engine emissions are regulated at international level through the International Maritime Organisation (IMO). The evolution of these standards is insufficient to respond to port air quality problems in the Community.

(7) Article 4b of Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC ⁽⁵⁾ as regards the sulphur content of marine fuels, exempts ships which switch off all engines and use shore-side electricity while at berth in ports from the requirement to use 0,1 % sulphur marine fuel.

(8) Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity ⁽⁶⁾ permits Member States to apply total or partial exemptions or reductions in the level of taxation to electricity under certain conditions,

HEREBY RECOMMENDS:

1. Member States should consider the installation of shore-side electricity for use by ships at berth in ports; particularly in ports where air quality limit values are exceeded or where public concern is expressed about high levels of noise nuisance, and especially in berths situated near residential areas.

2. Member States should take note of the advice, set out in the Annex, on the cost-effectiveness and practicality of using shore-side electricity to reduce emissions for different types of ships, routes and ports. Nevertheless, the environmental benefits and cost-effectiveness should be evaluated on a case by case basis.

3. Member States should work within the International Maritime Organization (IMO), in the context of the ongoing review of the International Convention for the Prevention of Pollution from Ships (MARPOL Convention), to promote the development of harmonised international standards for shore-side electrical connections, taking into account ongoing work.

⁽¹⁾ COM(2002) 595 final.

⁽²⁾ OJ C 89 E, 14.4.2004, p. 107.

⁽³⁾ OJ C 8, 13.1.2004, p. 3.

⁽⁴⁾ COM(2001) 245 final.

⁽⁵⁾ OJ L 121, 11.5.1999, p. 13. Directive as last amended by Directive 2005/33/EC of the European Parliament and of the Council (OJ L 191, 22.7.2005, p. 59).

⁽⁶⁾ OJ L 283, 31.10.2003, p. 51. Directive as last amended by Directive 2004/75/EC (OJ L 157, 30.4.2004, p. 100, corrected by OJ L 195, 2.6.2004, p. 31).

4. Member States should consider offering economic incentives to operators to use shore-side electricity provided to ships, taking advantage of the possibilities set out in Community legislation.
 5. Member States should promote awareness of shore-side electricity among local authorities whose responsibility includes port areas, maritime authorities, port authorities, classification societies and industry associations.
 6. Member States should encourage port authorities and industry to exchange best practice concerning shore-side electricity supply and harmonising procedures for this service.
 7. Member States should report to the Commission on the action they intend to take to reduce ship emissions in ports, particularly where air quality limit values are exceeded.
- Done at Brussels, 8 May 2006.
- For the Commission*
Stavros DIMAS
Member of the Commission
-

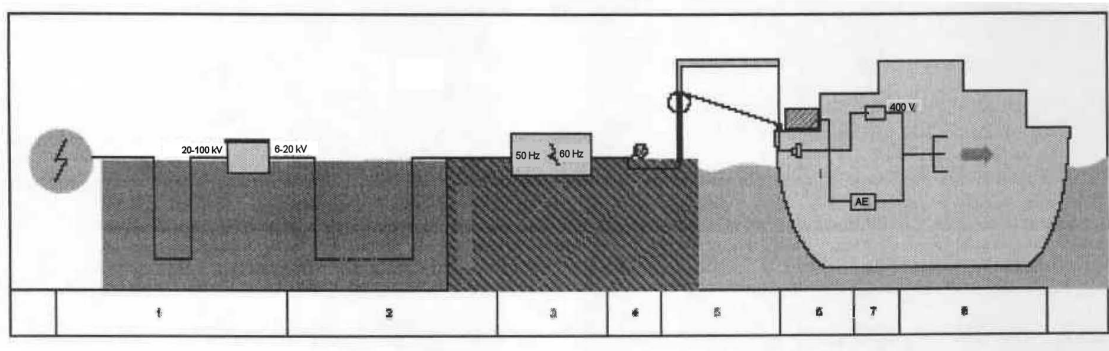
ANNEX

SHORE-SIDE ELECTRICITY SUMMARY ADVICE

This Annex provides pertinent information on the costs and benefits of shore-side electricity. More detailed information is contained in the recent report for the Commission, Service Contract on ship emissions assignment, abatement and market-based instruments: Shore-side electricity ⁽¹⁾. The emissions and cost figures here are for seagoing ships, but the technique is also well suited to inland vessels.

1. Technical requirements — typical configuration

The diagram below illustrates typical requirements for a shore-side electricity connection. Other configurations are possible, depending on the ship and berth. The International Electrical Commission and International Association of Classification Societies are currently working on industry standards, which can, in the future, be considered by the IMO.



1. A connection to the national grid carrying 20-100 kV electricity from a local substation, where it is transformed to 6-20 kV.
2. Cables to deliver the 6-20 kV power from the sub-station to the port terminal.
3. Power conversion, where necessary. (Electricity supply in the Community generally has a frequency of 50 Hz. A ship designed for 60 Hz electricity might be able to use 50 Hz electricity for some equipment, such as domestic lighting and heating, but not for motor driven equipment such as pumps, winches and cranes. Therefore, a ship using 60 Hz electricity would require 50 Hz electricity to be converted to 60 Hz).
4. Cables to distribute electricity to the terminal. These might be installed underground within existing or new conduits.
5. A cable reel system, to avoid handling of high voltage cables. This might be built on the berth supporting a cable reel, davit and frame. The davit and frame could be used to raise and lower the cables to the vessel. The cable reel and frame could be electro-mechanically powered and controlled.
6. A socket onboard the vessel for the connecting cable.
7. A transformer on board the vessel to transform the high voltage electricity to 400 V.
8. The electricity is distributed around the ship, and the auxiliary engines switched off.

2. Benefits — emissions reductions

Shore-side electricity is a tool that can be used to achieve local air quality improvements. The benefits from its use vary greatly depending on a range of factors. The Impact Assessment accompanying this Recommendation provides an illustration of the benefits that could be achieved through a larger use of this tool within the EU. Before proceeding with individual installations it will be necessary to perform an analysis of the costs and benefits for the specific circumstances.

⁽¹⁾ See: http://www.europa.eu.int/comm/environment/air/pdf/task2_shore-side.pdf

The Impact Assessment illustrates the reduction in air pollutant emissions for 500 berths assuming medium-sized engines. One important factor influencing the benefits is the sulphur content of the fuel. Community law sets tighter limits on the content of sulphur in fuel used at berth in most conditions from 2010. Therefore illustrations are provided for fuel sulphur content of 2,7 and 0,1 %. It is shown that the use of shore-side electricity would realise total monetised benefits in a range of between EUR 252 and 708 million per annum where 2,7 % sulphur fuel would have been used and between EUR 103 and 284 million per annum where 0,1 % sulphur fuel would have been used. These reflect improved human health and reduced material damage as a result of reductions in air pollutant emissions ⁽¹⁾.

Switching to shore-side electricity will also result in other benefits that are not included in these figures. It will reduce carbon dioxide (CO₂) emissions by over 50 %, carbon monoxide (CO) emissions by about 99 %, and nitrous oxide emissions (N₂O) by over 50 %. It will eliminate vibrations and noise from auxiliary engines, which has been measured at 90-120 dB in close proximity and improve maintenance conditions for the ships' engineers.

3. Costs — capital expenditure and operating costs

The costs of installing and using shore-side electricity are split between the port and the ship, and will vary significantly depending on existing infrastructure, particularly on the port side. The Impact Assessment provides indicative calculations of the total annualised system costs for an average berth and for new and retrofit vessels with different auxiliary engine sizes. The results are shown in table 1.

It can be seen that overall costs are much lower for ships with larger auxiliary engines, which are also likely to result in the greatest pollutant emission reduction. Costs are also much lower where shore-side electricity is installed in newly built ships as opposed to retrofitting. Fuel and electricity costs are a very significant factor in the cost to ships. Fuel costs vary, but lower sulphur fuel will be more expensive than higher sulphur fuel. Lowering taxation on electricity supplied to ships at berth increases the attractiveness of shore-side electricity.

Table 1

SHIP TYPE Auxiliary engine size	Annualised total system costs	
	with tax low fuel price	no tax high fuel price
	(EUR/berth/year)	(EUR/berth/year)
NEWBUILD		
Small	164 659	82 315
Medium	269 416	39 904
Large	521 630	– 72 298
RETROFIT		
Small	202 783	120 439
Medium	324 402	94 890
Large	617 999	24 071

4. Comparison of benefits and costs

The annual monetised benefits of reducing the four pollutants at 500 berths are estimated to be between EUR 103 and 284 million where 0,1 % sulphur fuel would have been used and between EUR 252 and 708 million where 2,7 % sulphur fuel would have been used. The range of values depends on various methodological factors including the assumed value of statistical life. For more detail see the Thematic Strategy on Air Pollution ⁽²⁾ impact assessment.

The annualised total system costs per berth set out in table 1 depend on three factors: the size of the ships' engines, whether the technology is introduced to a new or an old ship and on electricity and marine fuel costs. The Impact Assessment shows that the cost of ships using shore-side electricity at 500 berths is estimated to be EUR 185 million more annually than ships using marine fuel, in a scenario with a low marine fuel price and full electricity tax paid by vessels. In a scenario with a higher fuel price and electricity tax were fully exempt, the total cost would reduce by 80 % to about EUR 34 million per annum.

⁽¹⁾ See http://europa.eu.int/comm/environment/air/cafe/activities/pdf/cafe_cba_externalities.pdf (page 4). Values are national averages (urban and rural combined) so benefits may be higher in city centre ports.

⁽²⁾ SEC(2005) 1133.

These figures show that for many situations the benefits of shore-side electricity outweigh the costs. In many case the benefits are a large multiple of the costs.

5. Conclusion

The benefits and costs of shore-side electricity vary significantly depending on the existing configuration and location of the port, berth and ship. This means that its cost-effectiveness needs to be studied on a case-by-case basis, and that direct reduction of marine engine emissions should continue to be pursued.

In environmental terms, shore-side electricity achieves emission reductions well beyond those achieved from switching to 0,1 % sulphur fuel at berth (as Directive 2005/33/EC requires from 2010), particularly for NO_x and PM. It therefore merits particular consideration in ports where ship NO_x and PM emissions are contributing to local air quality problems, such as exceedances of ambient air quality limit values for ozone and particles.

In general the figures suggest that for ships with larger engines regularly visiting the same port, switching to shore-side electricity should be both environmentally and economically preferable to using 0,1 % sulphur fuel. In economic terms, shore-side electricity should generate savings compared to low sulphur fuel for new-build ships regularly visiting the same ports, especially, but not only, if electricity tax reductions are offered as allowed under Directive 2003/96/EC. Member States and local authorities might wish to consider other means to encourage ports to invest in shore-side electricity infrastructure and to ensure its use.

COMMISSION DECISION

of 8 May 2006

amending Decision 2001/171/EC of the European Parliament and of the Council for the purpose of prolonging the validity of the conditions for a derogation for glass packaging in relation to the heavy metal concentration levels established in Directive 94/62/EC

*(notified under document number C(2006) 1823)***(Text with EEA relevance)**

(2006/340/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste ⁽¹⁾, and in particular Article 11(3) thereof,

Whereas:

(1) The derogation laid down in Commission Decision 2001/171/EC ⁽²⁾ for glass packaging in relation to the heavy metal concentration levels established in Directive 94/62/EC expires on 30 June 2006.

(2) The compliance throughout the Community with the 100 ppm limit value established in Article 11(1) of Directive 94/62/EC could only be achieved through a reduction of the glass recycling rate; however, such a reduction is not desirable from an environmental point of view.

(3) The validity of Decision 2001/171/EC should therefore be prolonged without any further expiry date.

(4) The measures provided for in this Decision are in accordance with the opinion of the Committee established pursuant to Article 21 of Directive 94/62/EC,

HAS ADOPTED THIS DECISION:

Article 1

Article 6 of Decision 2001/171/EC is deleted.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 8 May 2006.

For the Commission

Stavros DIMAS

Member of the Commission

⁽¹⁾ OJ L 365, 31.12.1994, p. 10. Directive as last amended by Directive 2005/20/EC (OJ L 70, 16.3.2005, p. 17).

⁽²⁾ OJ L 62, 2.3.2001, p. 20.