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Contents

I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 1997/2006 of 19 December 2006 amending Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs ⁽¹⁾ 1**
- ★ **Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid 5**
- ★ **Commission Regulation (EC) No 1999/2006 of 20 December 2006 imposing a provisional anti-dumping duty on imports of certain saddles originating in the People's Republic of China ... 11**
- ★ **Commission Regulation (EC) No 2000/2006 of 20 December 2006 amending Regulation (EC) No 1870/2005 by reason of the accession of Bulgaria and Romania to the European Union 37**
- ★ **Commission Regulation (EC) No 2001/2006 of 21 December 2006 adapting Regulation (EC) No 2295/2003 introducing detailed rules for implementing Council Regulation (EEC) No 1907/90 on certain marketing standards for eggs by reason of the accession of Bulgaria and Romania to the European Union 39**
- ★ **Commission Regulation (EC) No 2002/2006 of 21 December 2006 amending Regulation (EC) No 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers 47**
- ★ **Commission Regulation (EC) No 2003/2006 of 21 December 2006 laying down detailed rules for the financing by the European Agricultural Guarantee Fund (EAGF) of expenditure relating to the common organisation of the markets in fishery and aquaculture products 49**

⁽¹⁾ Text with EEA relevance

(Continued overleaf)

Price: EUR 26

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

★ Commission Regulation (EC) No 2004/2006 of 22 December 2006 amending Regulation (EEC) No 2273/93 determining the intervention centres for cereals, and adapting the said regulation due to the accession of Bulgaria and Romania	54
★ Commission Regulation (EC) No 2005/2006 of 22 December 2006 imposing provisional anti-dumping duties on imports of synthetic staple fibres of polyesters (PSF) originating in Malaysia and Taiwan	65
★ Commission Regulation (EC) No 2006/2006 of 22 December 2006 amending Regulation (EC) No 950/2006 to include the annual tariff quota for sugar products originating in Croatia	95
★ Commission Regulation (EC) No 2007/2006 of 22 December 2006 implementing Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards the importation and transit of certain intermediate products derived from Category 3 material intended for technical uses in medical devices, in vitro diagnostics and laboratory reagents and amending that Regulation ⁽¹⁾	98
★ Commission Regulation (EC) No 2008/2006 of 22 December 2006 laying down detailed rules for the application in 2007 of the tariff quotas for 'baby beef' products originating in Croatia, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Serbia, Montenegro and Kosovo	105
Commission Regulation (EC) No 2009/2006 of 27 December 2006 fixing the export refunds on milk and milk products	117
Commission Regulation (EC) No 2010/2006 of 27 December 2006 determining the quantity of certain products in the milk and milk products sector available for the first half of 2007 under quotas opened by the Community on the basis of an import licence alone	121

II Acts whose publication is not obligatory

Council

2006/1008/EC:

★ Council Decision of 21 December 2006 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism	123
--	-----

Commission

2006/1009/EC:

★ Commission Decision of 22 December 2006 concerning the non-inclusion of dimethenamid in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance (notified under document number C(2006) 6895) ⁽¹⁾	125
---	-----



⁽¹⁾ Text with EEA relevance

- ★ **Commission Decision of 22 December 2006 concerning the non-inclusion of phosalone in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance** (*notified under document number C(2006) 6897*) ⁽¹⁾ 127
-

Acts adopted under Title V of the Treaty on European Union

- ★ **Council Common Position 2006/1011/CFSP of 21 December 2006 implementing Common Position 2001/931/CFSP on the application of specific measures to combat terrorism** 129



⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1997/2006**of 19 December 2006****amending Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs****(Text with EEA relevance)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) It is necessary to advance the implementation of the European Action Plan for Organic Food and Farming on the basis of concrete measures with a view to assuring simplification and overall coherence.

(2) Organic products imported into the Community should be allowed to be placed on the Community market labelled with a reference to organic farming if they have been produced in accordance with production rules and subject to inspection arrangements that are in compliance with, or equivalent to, Community legislation.

(3) Third countries whose production standards and inspection arrangements are equivalent to those applied in the Community should be recognised and a list thereof should be published. Inspection bodies or inspection authorities competent to carry out inspection in countries which are not on the list of recognised third countries should also be recognised and listed. Third country operators who produce in direct compliance with Community rules should be allowed to submit their activities to inspection bodies and inspection authorities recognised by the Commission for this purpose.

(4) Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs ⁽²⁾ provides for the possibility for Member States to grant until 31 December 2006 authorisations to importers for the placing on the Community market of individual products under certain conditions. It should be amended to replace that import scheme with a scheme applicable after that date.

(5) In order not to disrupt international trade, it is necessary to extend the possibility for Member States to continue to grant authorisations to importers on a case by case basis for the placing on the Community market of products until the measures necessary for the functioning of the new import scheme have been put in place, in particular as regards the recognition of inspection bodies and inspection authorities competent to carry out inspection in those countries which are not on the list of recognised third countries.

(6) Regulation (EEC) No 2092/91 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2092/91 is hereby amended as follows:

1. In Article 10(1), point (b) shall be replaced by the following:

‘(b) have been subject to the inspection system referred to in Article 9, or have been imported in conformity with Article 11;

however, in the case of products imported in conformity with Article 11(6), the implementation of the inspection system shall comply with requirements equivalent to those provided for in Article 9, and in particular paragraph 4 thereof.’

⁽¹⁾ Opinion delivered on 28 September 2006 (not yet published in the Official Journal).

⁽²⁾ OJ L 198, 22.7.1991, p. 1. Regulation as last amended by Commission Regulation (EC) No 780/2006 (OJ L 137, 25.5.2006, p. 9).

2. Article 11 shall be replaced by the following:

'Article 11

1. A product imported from a third country may be placed on the Community market labelled as a product with indications referring to the organic production method provided that:

- (a) the product complies with the provisions set out in Articles 5 and 6 of this Regulation;
- (b) all operators, including the exporters, have submitted their activities to an inspection body or an inspection authority recognised in accordance with paragraph 2; and,
- (c) the operators concerned shall be able to provide at any time, to the importers or the national authorities, documentary evidence permitting the identification of the operator who carried out the last operation and the type or range of products under his control, as well as permitting verification of compliance by that operator with points (a) and (b), and the period of validity.

2. The Commission shall, in accordance with the procedure referred to in Article 14(2), recognise the inspection bodies and inspection authorities referred to in paragraph 1(b), including inspection bodies and inspection authorities referred to in Article 9, competent to carry out inspections and to issue documentary evidence referred to in paragraph 1(c) in third countries, and shall establish a list of those inspection bodies and inspection authorities.

The inspection bodies shall be accredited to the relevant European Standard EN 45011 or ISO Guide 65 "General requirements for bodies operating product certification systems", this being the version last published in the *Official Journal of the European Union*, C series. The inspection bodies shall undergo regular on-the-spot evaluation, monitoring and multi-annual re-assessment of their activities by the accreditation body.

When examining requests for recognition, the Commission shall invite the inspection body or authority to supply all the necessary information. The Commission may also entrust experts with the task of examining on-the-spot the rules of production and the inspection activities carried out in the third country by the inspection body or inspection authority concerned.

The recognised inspection bodies or inspection authorities shall provide the assessment reports issued by the accreditation body or, as appropriate, the competent authority on

the regular on-the-spot evaluation, monitoring and multi-annual re-assessment of their activities.

Based on the assessment reports, the Commission, assisted by the Member States, shall ensure appropriate supervision of the recognised inspection bodies and inspection authorities by regularly reviewing their recognition. The nature of the supervision shall be determined on the basis of an assessment of the risk of the occurrence of irregularities or infringements of the provisions of this Regulation.

3. A product imported from a third country may also be placed on the Community market labelled as a product with indications referring to the organic production method, provided that:

- (a) the product has been produced in accordance with production standards equivalent to the production rules laid down in Articles 5 and 6 for organic production in the Community;
- (b) the operators have been subject to inspection measures equivalent to those referred to in Articles 8 and 9, and such inspection measures have been permanently and effectively applied;
- (c) the operators at all stages of production, preparation and distribution in the third country have submitted their activities to an inspection system recognised in accordance with paragraph 4 or an inspection body or inspection authority recognised in accordance with paragraph 5; and,
- (d) the product is covered by a certificate of inspection issued by the competent authorities or inspection bodies or inspection authorities of the third country recognised in accordance with paragraph 4, or by an inspection body or inspection authority recognised in accordance with paragraph 5, which confirms that the product satisfies the conditions set out in this paragraph. The original of the certificate must accompany the goods to the premises of the first consignee. Thereafter, the importer must keep the certificate at the disposal of the inspection body and, as appropriate, the inspection authority for not less than two years.

4. The Commission may, in accordance with the procedure referred to in Article 14(2), recognise third countries whose system of production complies with rules equivalent to those laid down in Articles 5 and 6 and whose inspection arrangements are equivalent to those laid down in Article 8 and 9, and may establish a list of these countries. The assessment of equivalency shall take into account *Codex Alimentarius* guidelines CAC/GL 32.

When examining requests for recognition, the Commission shall invite the third country to supply all the necessary information. The Commission may entrust to experts the task of examining on-the-spot the rules of production and the inspection arrangements of the third country concerned.

By 31 March of each year, the third countries so recognised shall send a concise annual report to the Commission regarding the implementation and the enforcement of their inspection arrangements.

Based on the information in those annual reports, the Commission, assisted by the Member States, shall ensure appropriate supervision of the recognised third countries by regularly reviewing their recognition. The nature of the supervision shall be determined on the basis of an assessment of the risk of the occurrence of irregularities or infringements of the provisions of this Regulation.

5. For products not imported under paragraph 1 and not imported from a third country which is recognised under paragraph 4, the Commission may, in accordance with the procedure referred to in Article 14(2), recognise the inspection bodies and inspection authorities, including inspection bodies and inspection authorities as referred to in Article 9, competent to carry out inspections and issue certificates in third countries for the purpose of paragraph 3, and establish a list of these inspection bodies and inspection authorities. The assessment of equivalency shall take into account *Codex Alimentarius* guidelines CAC/GL 32.

The Commission shall examine any request for recognition lodged by an inspection body or an inspection authority in a third country.

When examining requests for recognition, the Commission shall invite the inspection body or inspection authority to supply all the necessary information. The inspection body or the inspection authority shall undergo regular on-the-spot evaluation, monitoring and multi-annual re-assessment of their activities by an accreditation body or, as appropriate, by a competent authority. The Commission may entrust to experts the task of examining on-the-spot the rules of production and the inspection activities carried out in the third country by the inspection body or inspection authority concerned.

The recognised inspection bodies or inspection authorities shall provide the assessment reports issued by the accreditation body or, as appropriate, the competent authority on the regular on-the-spot evaluation, monitoring and multi-annual re-assessment of their activities.

Based on those assessment reports, the Commission, assisted by the Member States, shall ensure appropriate supervision of recognised inspection bodies and inspection authorities by regularly reviewing their recognition. The nature of the supervision shall be determined on the basis of an

assessment of the risk of the occurrence of irregularities or infringements of the provisions of this Regulation.

6. For a period starting on 1 January 2007 and ending 12 months after the publication of the first list of inspection bodies and inspection authorities recognised pursuant to paragraph 5, the competent authority of a Member State may authorise importers in that Member State, where the importer has notified his activity in accordance with Article 8(1), to place on the market products imported from third countries which are not included in the list referred to in paragraph 4, provided that the importer provides sufficient evidence showing that the conditions referred to in points (a) and (b) of paragraph 3 are satisfied. If those conditions are no longer satisfied, the authorisation shall be immediately withdrawn. Authorisations shall expire at the latest 24 months after the publication of the first list of inspection bodies and inspection authorities recognised pursuant to paragraph 5. The imported product shall be covered by a certificate of inspection issued by the authority or body which has been accepted for issuing the certificate of inspection by the competent authority of the authorising Member State. The original of the certificate must accompany the goods to the premises of the first consignee; thereafter the importer must keep the certificate at the disposal of the inspection body and, as appropriate, the inspection authority for not less than two years.

Each Member State shall inform the other Member States and the Commission of each authorisation granted pursuant to this paragraph, including information on the production standards and inspection arrangements concerned.

At the request of a Member State or at the Commission's initiative, an authorisation granted pursuant to this paragraph shall be examined by the Committee referred to in Article 14. If this examination discloses that the conditions referred to in points (a) and (b) of paragraph 3 of this Article are not satisfied, the Commission shall require the Member State which granted the authorisation to withdraw it.

Any authorisation to market products imported from a third country which had, prior to 31 December 2006, been granted to an importer by the competent authority of the respective Member State under this paragraph, shall expire on 31 December 2007 at the latest.

7. The Commission shall, in accordance with the procedure referred to in Article 14(2), adopt detailed rules for the application of this Article, in particular regarding:

- (a) the criteria and procedures to be followed with regard to the recognition of third countries and inspection bodies and inspection authorities, including the publication of lists of recognised third countries and inspection bodies and inspection authorities; and,

(b) the documentary evidence referred to in paragraph 1 and the certificate referred to in paragraphs 3(d) and 6 of this Article, taking into account the advantages of electronic certification including the enhanced protection against fraud.'

3. The second subparagraph of Article 16(3) shall be deleted.

4. Point C of Annex III is hereby amended as follows:

(a) In the first paragraph, the second indent shall be replaced by the following:

— the first consignee shall mean the natural or legal person referred to in Article 11(3)(d) and Article 11(6) to whom the consignment is delivered and who will receive it for further preparation or placing on the Community market. and;'

(b) In point 5, the first subparagraph shall be replaced by the following:

'The inspection body or authority shall inspect the stock and financial records mentioned in section C, point 2 and the certificate of inspection referred to in Article 11(3)(d) or Article 11(6) and the documentary evidence referred to in Article 11(1).'

Article 2

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

It shall apply from 1 January 2007.

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

Done at Brussels, 19 December 2006.

For the Council
The President
J. KORKEAOJA

COMMISSION REGULATION (EC) No 1998/2006

of 15 December 2006

on the application of Articles 87 and 88 of the Treaty to *de minimis* aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

conditions laid down in Regulation (EC) No 69/2001 and to replace that Regulation.

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid ⁽¹⁾, and in particular Article 2 thereof,

Having published a draft of this Regulation ⁽²⁾,

After consulting the Advisory Committee on State aid,

Whereas:

(1) Regulation (EC) No 994/98 empowers the Commission to set out in a Regulation a threshold under which aid measures are deemed not to meet all the criteria of Article 87(1) of the Treaty and therefore do not fall under the notification procedure provided for in Article 88(3) of the Treaty.

(2) The Commission has applied Articles 87 and 88 of the Treaty and has, in particular, clarified in numerous decisions the notion of aid within the meaning of Article 87(1) of the Treaty. The Commission has also stated its policy with regard to a *de minimis* ceiling, below which Article 87(1) can be considered not to apply, initially in its notice on the *de minimis* rule for State aid ⁽³⁾ and subsequently in Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid ⁽⁴⁾. In the light of the experience gained in applying that Regulation and in order to take account of the evolution of inflation and gross domestic product in the Community up to and including 2006 and of the likely developments through the period of validity of this Regulation, it appears appropriate to revise some of the

(3) In view of the special rules which apply in the sectors of primary production of agricultural products, fisheries and aquaculture and of the risk that smaller amounts of aid than those set out in this Regulation could fulfil the criteria of Article 87(1) of the Treaty in those sectors, this Regulation should not apply to those sectors. Given the evolution of the transport sector, in particular the restructuring of many transport activities following their liberalisation, it is no longer appropriate to exclude the transport sector from the scope of the *de minimis* Regulation. The scope of this Regulation should therefore be extended to the whole of the transport sector. The general *de minimis* ceiling should however be adapted in order to take account of the average small size of undertakings active in the road freight and passengers transport sector. For the same reasons, and also in view of the overcapacity of the sector and of the objectives of transport policy as regards road congestion and freight transports, aid for the acquisition of road freight transport vehicles by undertakings performing road freight transport for hire and reward should be excluded. This does not call into question the Commission's favourable approach with regard to State aid for cleaner and more environmentally friendly vehicles in Community instruments other than this Regulation. In view of Council Regulation (EC) No 1407/2002 of 23 July 2002 on State aid to the coal industry ⁽⁵⁾, this Regulation should not apply to the coal sector.

(4) Considering the similarities between the processing and marketing of agricultural products, on the one hand, and of non-agricultural products, on the other hand, this Regulation should apply to the processing and marketing of agricultural products, provided that certain conditions are met. Neither on-farm activities necessary for preparing a product for the first sale, such as harvesting, cutting and threshing of cereals, packing of eggs etc., nor the first sale to resellers or processors should be considered as processing or marketing in this respect. As from the entry into force of this Regulation, aid granted in favour of undertakings active in the processing or marketing of agricultural products should no longer be subject to Commission Regulation (EC) No 1860/2004 of 6 October 2004 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the agriculture and fisheries sector ⁽⁶⁾. Regulation (EC) No 1860/2004 should therefore be amended accordingly.

⁽¹⁾ OJ L 142, 14.5.1998, p. 1.

⁽²⁾ OJ C 137, 10.6.2006, p. 4.

⁽³⁾ OJ C 68, 6.3.1996, p. 9.

⁽⁴⁾ OJ L 10, 13.1.2001, p. 30.

⁽⁵⁾ OJ L 205, 2.8.2002, p. 1.

⁽⁶⁾ OJ L 325, 28.10.2004, p. 4.

- (5) The Court of Justice of the European Communities has established that, once the Community has legislated for the establishment of a common organisation of the market in a given sector of agriculture, Member States are under an obligation to refrain from taking any measure which might undermine or create exceptions to it. For this reason, this Regulation should not apply to aid, the amount of which is fixed on the basis of price or quantity of products purchased or put on the market. Nor should it apply to *de minimis* support which is linked to an obligation to share the aid with primary producers.
- (6) This Regulation should not apply to *de minimis* export aid or *de minimis* aid favouring domestic over imported products. In particular, it should not apply to aid financing the establishment and operation of a distribution network in other countries. Aid towards the cost of participating in trade fairs, or of studies or consultancy services needed for the launch of a new or existing product on a new market does not normally constitute export aid.
- (7) This Regulation should not apply to undertakings in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty ⁽¹⁾ in view of the difficulties linked to determining the gross grant equivalent of aid granted to this type of undertakings.
- (8) In the light of the Commission's experience, it can be established that aid not exceeding a ceiling of EUR 200 000 over any period of three years does not affect trade between Member States and/or does not distort or threaten to distort competition and therefore does not fall under Article 87(1) of the Treaty. As regards undertakings active in the road transport sector, this ceiling should be set at EUR 100 000.
- (9) The years to take into account for this purpose are the fiscal years as used for fiscal purposes by the undertaking in the Member State concerned. The relevant period of three years should be assessed on a rolling basis so that, for each new grant of *de minimis* aid, the total amount of *de minimis* aid granted in the fiscal year concerned, as well as during the previous two fiscal years, needs to be determined. Aid granted by a Member State should be taken into account for this purpose even when financed entirely or partly by resources of Community origin. It should not be possible for aid measures exceeding the *de minimis* ceiling to be broken down into a number of smaller parts in order to bring such parts within the scope of this Regulation.
- (10) In accordance with the principles governing aid falling within Article 87(1) of the Treaty, *de minimis* aid should be considered to be granted at the moment the legal right to receive the aid is conferred on the undertaking under the applicable national legal regime.
- (11) In order to avoid circumvention of maximum aid intensities provided in different Community instruments, *de minimis* aid should not be cumulated with State aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding that fixed in the specific circumstances of each case by a block exemption Regulation or Decision adopted by the Commission.
- (12) For the purposes of transparency, equal treatment and the correct application of the *de minimis* ceiling, all Member States should apply the same method of calculation. In order to facilitate this calculation and in accordance with the present practice of application of the *de minimis* rule, aid amounts not taking the form of a cash grant should be converted into their gross grant equivalent. Calculation of the grant equivalent of transparent types of aid other than grants or of aid payable in several instalments requires the use of market interest rates prevailing at the time of granting such aid. With a view to a uniform, transparent and simple application of the State aid rules, the market rates for the purposes of this Regulation should be deemed to be the reference rates periodically fixed by the Commission on the basis of objective criteria and published in the *Official Journal of the European Union* or on the Internet. It may, however, be necessary to add additional basis points on top of the floor rate in view of the securities provided or the risk associated with the beneficiary.
- (13) For the purposes of transparency, equal treatment and effective monitoring, this Regulation should apply only to *de minimis* aid which is transparent. Transparent aid is aid for which it is possible to calculate precisely the gross grant equivalent *ex ante* without a need to undertake a risk assessment. Such precise calculation can, for instance, be realised as regards grants, interest rate subsidies and capped tax exemptions. Aid comprised in capital injections should not be considered as transparent *de minimis* aid, unless the total amount of the public injection is lower than the *de minimis* ceiling. Aid comprised in risk capital measures as referred to in the

⁽¹⁾ OJ C 244, 1.10.2004, p. 2.

Community guidelines on State aid to promote risk capital investments in small and medium-sized enterprises⁽¹⁾ should not be considered as transparent *de minimis* aid, unless the risk capital scheme concerned provides capital only up to the *de minimis* ceiling to each target undertaking. Aid comprised in loans should be treated as transparent *de minimis* aid when the gross grant equivalent has been calculated on the basis of market interest rates prevailing at the time of grant.

(14) This Regulation does not exclude the possibility that a measure, adopted by a Member State, might not be considered as State aid within the meaning of Article 87(1) of the Treaty on the basis of other grounds than those set out in this Regulation, for instance, in the case of capital injections, because such measure has been decided in conformity with the market investor principle.

(15) It is necessary to provide legal certainty for guarantee schemes which do not have the potential to affect trade and distort competition and in respect of which sufficient data is available to assess any potential effects reliably. This Regulation should therefore transpose the general *de minimis* ceiling of EUR 200 000 into a guarantee-specific ceiling based on the guaranteed amount of the individual loan underlying such guarantee. It is appropriate to calculate this specific ceiling using a methodology assessing the State aid amount included in guarantee schemes covering loans in favour of viable undertakings. The methodology and the data used to calculate the guarantee-specific ceiling should exclude undertakings in difficulty as referred to in the Community guidelines on State aid for rescuing and restructuring firms in difficulty. This specific ceiling should therefore not apply to ad hoc individual aid granted outside the scope of a guarantee scheme, to aid granted to undertakings in difficulty, or to guarantees on underlying transactions not constituting a loan, such as guarantees on equity transactions. The specific ceiling should be determined on the basis of the fact that taking account of a cap rate (net default rate) of 13 %, representing a worst case scenario for guarantee schemes in the Community, a guarantee amounting to EUR 1 500 000 can be considered as having a gross grant equivalent identical to the general *de minimis* ceiling. This amount should be reduced to EUR 750 000 as regards undertakings active in the road transport sector. Only guarantees covering up to 80 % of the underlying loan should be covered by these specific ceilings. A methodology accepted by the Commission following notification of such methodology on the basis of a Commission Regulation in the State aid area, like Commission Regulation (EC) No 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid⁽²⁾, may also be used by Member States for the purpose of

assessing the gross grant equivalent contained in a guarantee, if the approved methodology explicitly addresses the type of guarantees and the type of underlying transactions at stake in the context of the application of the present Regulation.

(16) Upon notification by a Member State, the Commission may examine whether an aid measure which does not consist in a grant, loan, guarantee, capital injection or risk capital measure leads to a gross grant equivalent that does not exceed the *de minimis* ceiling and could therefore be covered by the provisions of this Regulation.

(17) The Commission has a duty to ensure that State aid rules are respected and in particular that aid granted under the *de minimis* rules adheres to the conditions thereof. In accordance with the cooperation principle laid down in Article 10 of the Treaty, Member States should facilitate the achievement of this task by establishing the necessary machinery in order to ensure that the total amount of *de minimis* aid, granted to the same undertaking under the *de minimis* rule, does not exceed the ceiling of EUR 200 000 over a period of three fiscal years. To that end, when granting a *de minimis* aid, Member States should inform the undertaking concerned of the amount of the aid and of its *de minimis* character, by referring to this Regulation. Moreover, prior to granting such aid the Member State concerned should obtain from the undertaking a declaration about other *de minimis* aid received during the fiscal year concerned and the two previous fiscal years and carefully check that the *de minimis* ceiling will not be exceeded by the new *de minimis* aid. Alternatively it should be possible to ensure that the ceiling is respected by means of a central register, or, in the case of guarantee schemes set up by the European Investment Fund, the latter may establish itself a list of beneficiaries and require Member States to inform the beneficiaries of the *de minimis* aid received.

(18) Regulation (EC) No 69/2001 expires on 31 December 2006. This Regulation should therefore apply from 1 January 2007. In view of the fact that Regulation (EC) No 69/2001 did not apply to the transport sector, which was not subject to *de minimis* so far, given also the very limited *de minimis* amount applicable in the sector of processing and marketing of agricultural products, and provided that certain conditions are met, this Regulation should apply to aid granted before its entry into force to undertakings active in the transport sector, and in the sector of processing and marketing of agricultural products. Moreover, any individual aid granted in accordance with Regulation (EC) No 69/2001 during the period of application of that Regulation should remain unaffected by this Regulation.

⁽¹⁾ OJ C 194, 18.8.2006, p. 2.

⁽²⁾ OJ L 302, 1.11.2006, p. 29.

(19) Having regard to the Commission's experience and in particular the frequency with which it is generally necessary to revise State aid policy, it is appropriate to limit the period of application of this Regulation. Should this Regulation expire without being extended, Member States should have an adjustment period of six months with regard to *de minimis* aid covered by this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

1. This Regulation applies to aid granted to undertakings in all sectors, with the exception of:

- (a) aid granted to undertakings active in the fishery and aquaculture sectors, as covered by Council Regulation (EC) No 104/2000 ⁽¹⁾;
- (b) aid granted to undertakings active in the primary production of agricultural products as listed in Annex I to the Treaty;
- (c) aid granted to undertakings active in the processing and marketing of agricultural products as listed in Annex I to the Treaty, in the following cases:
 - (i) when the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned,
 - (ii) when the aid is conditional on being partly or entirely passed on to primary producers;
- (d) aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;
- (e) aid contingent upon the use of domestic over imported goods;
- (f) aid granted to undertakings active in the coal sector, as defined in Regulation (EC) No 1407/2002;
- (g) aid for the acquisition of road freight transport vehicles granted to undertakings performing road freight transport for hire or reward;

(h) aid granted to undertakings in difficulty.

2. For the purposes of this Regulation:

- (a) 'agricultural products' means products listed in Annex I to the EC Treaty, with the exception of fishery products;
- (b) 'processing of agricultural products' means any operation on an agricultural product resulting in a product which is also an agricultural product, except on farm activities necessary for preparing an animal or plant product for the first sale;
- (c) 'marketing of agricultural products' means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered as marketing if it takes place in separate premises reserved for that purpose.

Article 2

De minimis aid

1. Aid measures shall be deemed not to meet all the criteria of Article 87(1) of the Treaty and shall therefore be exempt from the notification requirement of Article 88(3) of the Treaty, if they fulfil the conditions laid down in paragraphs 2 to 5 of this Article.

2. The total *de minimis* aid granted to any one undertaking shall not exceed EUR 200 000 over any period of three fiscal years. The total *de minimis* aid granted to any one undertaking active in the road transport sector shall not exceed EUR 100 000 over any period of three fiscal years. These ceilings shall apply irrespective of the form of the *de minimis* aid or the objective pursued and regardless of whether the aid granted by the Member State is financed entirely or partly by resources of Community origin. The period shall be determined by reference to the fiscal years used by the undertaking in the Member State concerned.

When an overall aid amount provided under an aid measure exceeds this ceiling, that aid amount cannot benefit from this Regulation, even for a fraction not exceeding that ceiling. In such a case, the benefit of this Regulation cannot be claimed for this aid measure either at the time the aid is granted or at any subsequent time.

⁽¹⁾ OJ L 17, 21.1.2000, p. 22.

3. The ceiling laid down in paragraph 2 shall be expressed as a cash grant. All figures used shall be gross, that is, before any deduction of tax or other charge. Where aid is awarded in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.

Aid payable in several instalments shall be discounted to its value at the moment of its being granted. The interest rate to be used for discounting purposes and to calculate the gross grant equivalent shall be the reference rate applicable at the time of grant.

4. This Regulation shall apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid *ex ante* without need to undertake a risk assessment ('transparent aid'). In particular:

- (a) Aid comprised in loans shall be treated as transparent *de minimis* aid when the gross grant equivalent has been calculated on the basis of market interest rates prevailing at the time of the grant.
- (b) Aid comprised in capital injections shall not be considered as transparent *de minimis* aid, unless the total amount of the public injection does not exceed the *de minimis* ceiling.
- (c) Aid comprised in risk capital measures shall not be considered as transparent *de minimis* aid, unless the risk capital scheme concerned provides capital only up to the *de minimis* ceiling to each target undertaking.
- (d) Individual aid provided under a guarantee scheme to undertakings which are not undertakings in difficulty shall be treated as transparent *de minimis* aid when the guaranteed part of the underlying loan provided under such scheme does not exceed EUR 1 500 000 per undertaking. Individual aid provided under a guarantee scheme in favour of undertakings active in the road transport sector which are not undertakings in difficulty shall be treated as transparent *de minimis* aid when the guaranteed part of the underlying loan provided under such scheme does not exceed EUR 750 000 per undertaking. If the guaranteed part of the underlying loan only accounts for a given proportion of this ceiling, the gross grant equivalent of that guarantee shall be deemed to correspond to the same proportion of the applicable ceiling laid down in Article 2(2). The guarantee shall not exceed 80 % of the underlying loan. Guarantee schemes shall also be considered as transparent if (i) before the implementation of the scheme, the methodology to calculate the gross grant equivalent of the guarantees has been accepted following notification of this methodology to the Commission under another Regulation adopted by the Commission in the State aid area and (ii) the approved methodology explicitly addresses the type of guarantees and the type of underlying transactions at stake in the context of the application of this Regulation.

5. *De minimis* aid shall not be cumulated with State aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding that fixed in the specific circumstances of each case by a block exemption Regulation or Decision adopted by the Commission.

Article 3

Monitoring

1. Where a Member State intends to grant *de minimis* aid to an undertaking, it shall inform that undertaking in writing of the prospective amount of the aid (expressed as gross grant equivalent) and of its *de minimis* character, making express reference to this Regulation, and citing its title and publication reference in the *Official Journal of the European Union*. Where the *de minimis* aid is granted to different undertakings on the basis of a scheme and different amounts of individual aid are granted to those undertakings under the scheme, the Member State concerned may choose to fulfil this obligation by informing the undertakings of a fixed sum corresponding to the maximum aid amount to be granted under the scheme. In such case, the fixed sum shall be used for determining whether the ceiling laid down in Article 2(2) is met. Prior to granting the aid, the Member State shall also obtain a declaration from the undertaking concerned, in written or electronic form, about any other *de minimis* aid received during the previous two fiscal years and the current fiscal year.

The Member State shall only grant the new *de minimis* aid after having checked that this will not raise the total amount of *de minimis* aid received by the undertaking during the period covering the fiscal year concerned, as well as the previous two fiscal years in that Member State, to a level above the ceiling laid down in Article 2(2).

2. Where a Member State has set up a central register of *de minimis* aid containing complete information on all *de minimis* aid granted by any authority within that Member State, the first subparagraph of paragraph 1 shall cease to apply from the moment the register covers a period of three years.

Where an aid is provided by a Member State on the basis of a guarantee scheme providing a guarantee which is financed from the EU budget under mandate through the European Investment Fund, the first subparagraph of paragraph 1 of this Article may cease to apply.

In such cases, the following monitoring system shall apply:

- (a) the European Investment Fund shall establish, on a yearly basis, on the basis of information that financial intermediaries must provide to the EIF, a list of beneficiaries of aid and of the gross grant equivalent received by each of them. The European Investment Fund shall send this information to the Member State concerned and to the Commission; and

(b) the Member State concerned shall disseminate that information to the final beneficiaries within three months of receipt of such information from the European Investment Fund; and

(c) the Member State concerned shall obtain a declaration from each beneficiary that the overall *de minimis* aid it has received does not exceed the ceiling laid down in Article 2(2). In case the ceiling is exceeded with respect to one or more beneficiaries, the Member State concerned shall ensure that the aid measure leading to the ceiling being exceeded is either notified to the Commission or recovered from the beneficiary.

3. Member States shall record and compile all the information regarding the application of this Regulation. Such records shall contain all information necessary to demonstrate that the conditions of this Regulation have been complied with. Records regarding individual *de minimis* aid shall be maintained for 10 years from the date on which it was granted. Records regarding a *de minimis* aid scheme shall be maintained for 10 years from the date on which the last individual aid was granted under such scheme. On written request the Member State concerned shall provide the Commission, within a period of 20 working days, or such longer period as may be fixed in the request, with all the information that the Commission considers necessary for assessing whether the conditions of this Regulation have been complied with, in particular the total amount of *de minimis* aid received by any undertaking.

Article 4

Amendment

Article 2 of Regulation (EC) No 1860/2004 is amended as follows:

(a) in point 1, the words 'processing and marketing' are deleted;

(b) point 3 is deleted.

Article 5

Transitional measures

1. This Regulation shall apply to aid granted before its entry into force to undertakings active in the transport sector and undertakings active in the processing and marketing of agricultural products if the aid fulfils all the conditions laid down in Articles 1 and 2. Any aid which does not fulfil those conditions will be assessed by the Commission in accordance with the relevant frameworks, guidelines, communications and notices.

2. Any individual *de minimis* aid granted between 2 February 2001 and 30 June 2007, which fulfils the conditions of Regulation (EC) No 69/2001, shall be deemed not to meet all the criteria of Article 87(1) of the Treaty and shall therefore be exempt from the notification requirement of Article 88(3) of the Treaty.

3. At the end of the period of validity of this Regulation, any *de minimis* aid which fulfils the conditions of this Regulation may be validly implemented for a further period of six months.

Article 6

Entry into force and period of validity

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

It shall apply from 1 January 2007 until 31 December 2013.

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

Done at Brussels, 15 December 2006.

For the Commission

Neelie KROES

Member of the Commission

COMMISSION REGULATION (EC) No 1999/2006**of 20 December 2006****imposing a provisional anti-dumping duty on imports of certain saddles originating in the People's Republic of China**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

A. PROCEDURE**1. Initiation**

- (1) On 22 February 2006, the Commission received a complaint concerning certain saddles originating in the People's Republic of China (PRC) lodged pursuant to Article 5 of the basic Regulation by the European Saddle Manufacturers Association (the complainant) on behalf of producers representing a major proportion, in this case 99 %, of the total Community production of certain saddles.
- (2) This complaint contained evidence of dumping and of material injury resulting there from, which was considered sufficient to justify the opening of a proceeding.
- (3) On 7 April 2006, the proceeding was initiated by the publication of a notice of initiation in the *Official Journal of the European Union* ⁽²⁾.

2. Parties concerned by the proceeding

- (4) The Commission officially advised the exporting producers in the PRC, importers, traders, users, suppliers and associations known to be concerned, representatives of the PRC and the complainant Community producers and other Community producers known to be concerned of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.
- (5) In order to allow exporting producers to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned. Three exporting producers groups and one individual exporting producer requested MET pursuant to Article 2(7) of the basic Regulation, or IT should the investigation establish that they do not meet the conditions for MET. It should be noted that three of these exporting producers consisted of two or more related companies involved in the production and/or sales of saddles.
- (6) In view of the apparent high number of exporting producers in the PRC, importers and producers in the Community, in the notice of initiation, the Commission indicated that sampling may be applied in this investigation for the determination of dumping and injury in accordance with Article 17 of the basic Regulation.

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

⁽²⁾ OJ C 84, 7.4.2006, p. 4.

- (7) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers in the PRC, Community importers and Community producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the investigation period (1 January 2005 to 31 December 2005).
- (8) As far as the exporting producers are concerned, given that only three groups of companies and one individual company cooperated in the investigation, it was decided that sampling was not required.
- (9) With regard to Community producers, in accordance with Article 17 of the basic Regulation, a sample was selected based on the largest representative volume of production of saddles in the Community, which can reasonably be investigated within the time available. On the basis of the information received from Community producers, the Commission selected five companies located in two different Member States. In terms of production volume the five sampled companies represented 86 % of the total Community production. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection. In addition, the remaining Community producers were requested to provide certain general data for the injury analysis. Furthermore, and in accordance with Article 17 of the basic Regulation, a sample of importers was selected based on the largest representative volume of imports of the product concerned into the Community which can reasonably be investigated within the time available. On the basis of the information received from various importers and considering the different quality of the information submitted, two importers located in one Member State were selected for the sample. The two importers selected for the sample represent 21 % of imports of the product concerned in the Community. In view of the small number of responses received by users, it was decided that sampling of users was not necessary.
- (10) Questionnaires were sent to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from four exporting producers in the PRC and one producer in the analogue country, Brazil. Full questionnaire replies were also received from the five Community producers selected in the sample. Although four importers replied to the sampling form, only two cooperated by submitting a full questionnaire reply. Moreover, four users of saddles returned a full questionnaire reply. In addition, one questionnaire reply was also received from a raw material supplier.
- (11) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Community interest and carried out verifications at the premises of the following companies:
- (a) *Community producers*
- Selle Royal S.p.A., Pozzoleone, Italy
 - Selle Italia s.r.l., Rossano Veneto, Italy
 - Bassano Selle s.r.l., Riese Pio X, Italy
 - Selle SMP S.A.S., Casalserugo, Italy
 - pph ABI sp.j., Nasielsk, Poland.
- (b) *Exporting producers in the PRC*
- Cionlli Group
 - Cionlli Bicycle (Taicang) Co., Ltd.
 - Shunde Hongli Bicycle Parts Co., Ltd., Shunde

- Safe Strong Bicycle Parts Shenzhen Co., Ltd., Shenzhen
- Cionlli Bicycle (Tianjin) Co., Ltd., Tianjin.
- Giching Group
- Giching Bicycle Parts (Shenzhen) Co., Ltd., Shenzhen
- Velo Cycle (Kunshan) Co., Ltd., Kunshan.
- Justek Group
- Jiangyin Justek Vehicle Co., Ltd., Jiangyin
- Jiangyin Justek Communication Equipment Co., Ltd., Jiangyin
- Tianjin Justek Vehicle Co., Ltd., Tianjin
- Viscount Vehicle (Shenzhen) Co., Ltd., Shenzhen.

(c) *Related companies in the PRC and Taiwan*

- Cionlli Bicycle (Tianjin) Co., Ltd, Tianjin
- Cionlli Industrial Co., Ltd.

(d) *Unrelated importer in the Community*

- Buechel GmbH, Fulda, Germany.

- (12) In view of the need to establish a normal value for exporting producers to which MET might not be granted, a verification to establish normal value on the basis of data from an analogue country, Brazil in this case, took place at the premises of the following company:

(e) *Producer in Brazil*

- Royal Ciclo Indústria de Componentes Ltda, Rio do Sul.

3. Investigation period

- (13) The investigation of dumping and injury covered the period from 1 January to 31 December 2005 (investigation period or IP). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2002 to the end of the investigation period ('period considered').

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (14) The product concerned is certain saddles and essential parts thereof (i.e. bases, cushions and covers), of bicycles and other cycles (including delivery tricycles), not motorised, of cycles fitted with an auxiliary motor with or without sidecars, of fitness machines and of home trainers, ('the product concerned', or 'saddles') originating in the People's Republic of China. The product is normally declared within CN codes 8714 95 00, ex 8714 99 90 and ex 9506 91 10.

- (15) A saddle is typically made up of three parts: a base or support on which the saddle is built, is generally produced through a plastic injection moulding process; the cushion which is applied to the base to make the saddle comfortable which can be made from different types of synthetic foam or other materials; the cover, made from synthetic material or natural leather which covers the cushion and the edges of the base giving the saddle its feeling and aesthetical properties. As well as the above three components a saddle normally incorporates an attaching mechanism made from metal such as a fork, or clamp and may also include a spring or elastomer shock-absorbing mechanism.
- (16) The product concerned is used in bicycles and similar vehicles, as well as stationary appliances such as fitness machines. The investigation has shown that, despite differences in shapes, materials and production process, the different types of the product concerned all share the same basic physical and technical characteristics and are basically used for the same purposes. They are therefore considered to constitute a single product for the purpose of this proceeding.

2. Like product

- (17) The investigation showed that the basic physical and technical characteristics of the saddles produced and sold by the Community industry in the Community, saddles produced and sold on the domestic Chinese market and saddles imported into the Community from the PRC, as well as those produced and sold in Brazil are the same and that these products have the same use.
- (18) It was therefore provisionally concluded that these products are alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Market economy treatment (MET)

- (19) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.
- (20) Briefly, and for ease of reference only, the MET criteria are set out in summarised form below:
1. Business decisions and costs are made in response to market signals and without significant State interference; and costs of major inputs substantially reflect market values.
 2. Firms have one clear set of basic accounting records which are independently audited in line with international accounting standards and are applied for all purposes.
 3. There are no significant distortions carried over from the former non-market economy system.
 4. Bankruptcy and property laws guarantee legal certainty and stability.
 5. Exchange rate conversions are carried out at market rates.
- (21) Two groups of exporting producers and one individual exporting producer requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form for exporting producers within the given deadline. The Commission sought and verified at the premises of these companies all necessary information submitted in the MET applications as deemed necessary. The investigation revealed that the MET could only be granted to two groups of exporting producers, whereas the claim had to be rejected for one group of companies and the individual company.

- (22) With regard to the individual exporting producer, the investigation showed that the company did not meet the requirements of the above-mentioned criteria 1 and 3. Namely, the company could not demonstrate that its business decisions were taken in response to market signals, without significant State interference, in particular as sales quantities in the domestic and export markets are restricted by the Articles of Association of the company which cannot be changed without State approval. Moreover, the company could not demonstrate that there are no distortions carried over from the former non-market economy system, in particular by providing written evidence concerning the acquisition of the land use rights.
- (23) In addition, one group of exporting producers failed to declare their relationship with a major domestic customer both in the reply to the market economy claim form and the response to the anti-dumping questionnaire. The relationship was only uncovered by cross-checks made at the premises of those exporting producers. It is the Commission's consistent policy to make an MET/IT determination for groups of related companies as a whole. Therefore granting MET/IT to this exporter would have required the related company to fully cooperate in the investigation, in order to establish its precise activities regarding the product concerned, the fulfilment of the MET criteria and the influence of the relationship upon the transactions between the two companies. This was not the case, since the related company did not cooperate in the investigation. Therefore, the Commission was not in a position to make a MET/IT determination for this group of companies. It should be noted that this issue affected a very substantial part of the exporters' domestic sales. Moreover, this deliberate omission cast doubts on the reliability of other information and documents submitted to the Commission. In view of this omission and its significance both in terms of the MET analysis and of any dumping determinations that would be based on the individual data submitted by this group of exporters, it was determined that they had provided false and misleading information within the meaning of Article 18 of the basic Regulation. The company was informed forthwith of the basis on which it was intended to disregard the information provided and was given the opportunity to provide further explanations, in accordance with Article 18(4) of the basic Regulation. However, the explanations given by the company were unsatisfactory and could neither convince the Commission that it did not submit misleading information nor resolve the doubts about the integrity of the remaining data submitted by the company. As such, this group of exporting producers was considered as not cooperating in the investigation and its request for MET and IT was rejected.
- (24) The interested parties were given an opportunity to comment on the above findings.
- (25) On this basis, MET was granted to two groups of exporting producers:
- Cionlli Bicycle (Taicang) Co. Ltd., and related companies
 - Giching Bicycle parts (Shenzhen) Co. Ltd., and related companies.

2. Individual treatment (IT)

- (26) Pursuant to Article 2(7)(a) of the basic Regulation, a country-wide duty, if any, is established for countries falling under that Article, except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation.
- (27) The exporting producer to which MET could not be granted also claimed IT in the event it was not granted MET. However, the company's claim for individual treatment (IT) was also rejected as the company failed to meet the criteria set out in Article 9(5)(b), namely that export prices and quantities were freely determined.

3. Normal value

(a) Determination of normal value for the exporting producers granted MET

- (28) As far as the determination of normal value is concerned, the Commission first established, for each of the exporting producers concerned, whether its total domestic sales of saddles were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume of the exporting producer was at least 5 % of its total export sales volume to the Community.
- (29) The two groups of companies granted MET included five companies producing saddles for export, three of which had also domestic sales. One further company had domestic sales but no exports.
- (30) For those exporting producers whose overall domestic sales were found to be representative, the Commission subsequently identified the types of saddles sold domestically which were identical or directly comparable to the types sold for export to the Community.
- (31) For each of those types, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type exported to the Community.
- (32) The Commission subsequently examined for each company whether the domestic sales of each type of the product concerned, sold domestically in representative quantities, could be regarded as having been made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation, by establishing the proportion of profitable sales to independent customers on the domestic market of the type in question.
- (33) In cases where the sales volume of a type of saddle, sold at a net sales price equal to or above its cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above its cost of production, normal value, by product type, was based on the actual domestic price. This price was calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not.
- (34) Where the volume of profitable sales of a type of saddle represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below its cost of production, normal value, by product type, was based on the actual domestic price, which was calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type.
- (35) Finally, where the volume of profitable sales of any type of saddle represented less than 10 % of the total sales volume of that type, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.
- (36) Wherever domestic prices of a particular type sold by an exporting producer could not be used, constructed normal value was used.

- (37) In accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to each exporter's manufacturing costs of the exported types, adjusted where necessary, a reasonable amount for selling, general and administrative costs (SG&A) and for profits. In all cases SG&A and profits were established pursuant to the methods set out in Article 2(6) of the basic Regulation. To this end, the Commission examined whether the SG&A costs incurred and the profit realised by each of the exporting producers concerned on the domestic market constituted reliable data.
- (38) Actual domestic SG&A costs were considered reliable when the total domestic sales volume of the company concerned could be regarded as representative as compared to the volume of export sales to the Community. The domestic profit margin was determined on the basis of domestic sales of those types that were sold in the ordinary course of trade. For this purpose, the methodology set out above was applied.
- (39) For the three companies with representative domestic sales it was found that the majority of types of the product concerned, which were exported, were sold on the domestic market in the ordinary course of trade. For those types where this was not the case, normal value was constructed using the methodology set out above, using the SG&A and profit information for each company concerned.
- (40) For the two companies without representative domestic sales, the amounts for SG&A and profit were determined on the basis of the average SG&A and profit of the four companies with domestic sales.
- (b) *Determination of normal value for the exporting producers not granted MET*
- (i) *Analogue country*
- (41) According to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET, has to be established on the basis of the prices or constructed value in an analogue country.
- (42) In the notice of initiation, the Commission indicated its intention to use Brazil as an appropriate analogue country for the purpose of establishing normal value and interested parties were invited to comment on this.
- (43) No exporting producers in the PRC not granted MET objected to this proposal.
- (44) However, an importer and an exporting producer granted MET have argued that Brazil is not the most appropriate analogue country, and that Taiwan or Mexico should be selected for that purpose instead.
- (45) Regarding Taiwan, it is considered that although a bicycle parts industry had developed there, most of the production has been transferred to the PRC. Accordingly, saddle manufacturers headquartered in Taiwan would be largely the same companies or related companies to the ones which are exporting from the PRC to the Community at allegedly dumped prices. Moreover, the normal division of labour within those groups means that only a few specialised models, with higher profit margins, are still produced in Taiwan, while the production of the vast majority of middle-range to lower-end models have been transferred to the PRC for cost reasons. It is not likely, therefore, that prices or costs of saddle models manufactured in Taiwan would be the best surrogate to base a normal value for the saddles manufactured in the PRC.
- (46) Regarding Mexico, this country is considered to be an open and competitive market, representing about one eighth of the size of the Brazilian market. The Commission contacted the two known producers in Mexico, but no cooperation was offered.

- (47) Regarding Brazil, the investigation revealed that it is a competitive market for the product concerned with at least three domestic producers, of different sizes, and with imports from third countries amounting to about 15 % of the domestic consumption of eight to nine million saddles per year. One exporting producer alleged that the level of competition on the Brazilian market was dubious due to the low number of producers. However, the investigation showed that there was no evidence of a dominant position of one of the Brazilian producers or that prices are established in a non-competitive manner. There was also no reason to believe that the access to raw materials, costs and other conditions of production in Taiwan or Mexico would be more similar to those in the PRC than they are in Brazil. The Brazilian market was therefore deemed adequate for the purpose of establishing normal value.
- (48) The three known exporting producers in Brazil were contacted, and one company agreed to co-operate. A questionnaire was therefore sent to this producer and the data submitted in its reply was verified on the spot. This cooperating producer is related to one of the Community producers, but there is no reason to believe that this would affect the reliability of the data, which was moreover verified at the company's premises.
- (49) In view of the foregoing, it is provisionally concluded that Brazil is the most appropriate and reasonable analogue country in accordance with Article 2(7) of the basic Regulation.

(ii) Normal value

- (50) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET was established on the basis of verified information received from the producer in the analogue country, i.e. on the basis of prices paid or payable on the Brazilian market for comparable product types, in accordance with the methodology set out above.
- (51) Normal value was established on the basis of all prices paid or payable on the Brazilian market for comparable product types, as the transactions were all found to be made in the ordinary course of trade.

4. Export prices

- (52) All exporting producers made export sales to the Community either directly to independent customers in the Community or through related or unrelated trading companies located in Hong Kong, the British Virgin Islands and Taiwan.
- (53) Where the product concerned was directly exported to independent customers in the Community, the export prices were based on the prices actually paid or payable for the product concerned, in accordance with Article 2(8) of the basic Regulation.
- (54) Where sales were made via a related trader located outside the Community, the export price was established on the basis of the first resale prices to independent customers in the Community.

5. Comparison

- (55) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments concerning transport, insurance, handling and ancillary costs, packing, credit, and bank charges were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.

- (56) For the sales channelled through related companies in Taiwan, an adjustment was applied in accordance with Article 2(10)(i) of the basic Regulation, where these companies have been shown to perform functions similar to that of an agent working on a commission basis. Given that the allocation of SG&A expenditure provided by the related company could not be considered reliable, this adjustment was based on the SG&A and profit data obtained from an unrelated trader.

6. Dumping margins

(a) For the cooperating exporting producers granted MET

- (57) For the companies granted MET, the weighted average normal value of each type of the product concerned exported to the Community was compared with the weighted average export price of the corresponding type of the product concerned, as provided for in Article 2(11) and (12) of the basic Regulation.
- (58) It has been the consistent practice of the Commission to consider related exporting producers or exporting producers belonging to the same group as one single entity for the determination of a dumping margin and thus to establish one single dumping margin for them. This in particular because individual dumping margins might encourage circumvention of anti-dumping measures, thus rendering them ineffective, by enabling related exporting producers to channel their exports to the Community through the company with the lowest individual dumping margin.
- (59) In accordance with this practice, the related exporting producers belonging to the same groups were regarded as one single entity and attributed one single dumping margin which was calculated on the basis of the weighted average of the dumping margins of the cooperating producers in the respective groups.
- (60) On this basis, the provisional weighted average dumping margins expressed as a percentage of the cif Community frontier price, duty unpaid, are:

Company	Provisional dumping margin
Cionlli Bicycle (Taicang) Co. Ltd., Shunde Hongli Bicycle Parts Co. Ltd. and Safe Strong Bicycle Parts Shenzhen Co. Ltd.	7,5 %
Giching Bicycle parts (Shenzhen) Co. Ltd. and Velo Cycle Kunshan Co. Ltd.	0 %

(b) For all other exporting producers

- (61) In order to calculate the country-wide dumping margin applicable to all other exporters in the PRC, the Commission first established the level of cooperation. A comparison was made between the total export quantities indicated in the questionnaire replies of the three cooperating exporting producers and total dumped imports from the PRC, calculated as explained in recital 71. The percentage found was 23 %. On this basis, the level of cooperation was deemed to be low.
- (62) It was therefore considered appropriate to determine the country-wide dumping margin as the weighted average of:

— the dumping margin found for the cooperating exporter to which neither MET nor IT was granted, and

- the highest dumping margins for representative product types of the same exporter, since there were no indications that the non-cooperating exporting producers dumped at a lower level.
- (63) On this basis the country-wide level of dumping was provisionally established at 30,9 % of the cif Community frontier price, duty unpaid.

D. INJURY

1. Community production

- (64) Within the Community the product concerned is known to be manufactured by nine producers on behalf of which the complaint was lodged. They are located in Italy, Poland, the United Kingdom and Portugal and represent 99 % of the Community production during the IP.
- (65) Furthermore, there was at initiation stage only one known Community producer which was not complainant. Taking into account the production volume of the nine complaining producers and the non-complaining producer in the Community, the total production of the like product amounted to 16 165 936 pieces in the IP.

2. Community industry

- (66) The following Community producers supported the complaint:
- Selle Royal S.p.A., Pozzoleone, Italy with its related company:
 - Brooks England Ltd., West Midlands, United Kingdom
 - Selle Italia s.r.l., Rossano Veneto, Italy with its related company:
 - Bassano Selle s.r.l., Riese Pio X, Italy
 - Selle SMP S.A.S., Casalserugo, Italy
 - pph ABI sp.j., Nasielsk, Poland
 - Iberoselle Fabrica de Selins Lda., Agueda, Portugal
 - Selle Montegrappa s.n.c., Ramon di Loria, Italy
 - Selle San Marco S.p.A., Rossano, Italy.
- (67) As these nine complainant cooperating Community producers (both the sampled and non-sampled) represent 99 % of the Community production of the like product, they constitute the Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation. The sampled Community producers in the investigation, (hereafter referred to as 'sampled producers') accounted for 86 % of the total Community production of saddles during the IP. The remaining Community producers were requested to provide certain general data for the injury analysis.

3. Community consumption

- (68) The Community consumption was established on the basis of the sales volumes on the Community market by the five sampled Community producers, the four Community producers which were not included in the sample, the non-complaining producer in the Community and imports from the PRC and from other third countries under the relevant CN codes according to Eurostat. As mentioned in recital 14 the product concerned is presently declared within CN codes 8714 95 00, ex 8714 99 90 and ex 9506 91 10. The Eurostat data concerning the latter two CN codes (ex 8714 99 90 and ex 9506 91 10) comprise also other parts of bicycles and exercising apparatus. As it was not possible to retrieve from these two broader categories the data for saddles only, it was decided to establish the import statistics only on the basis of one CN code, namely CN codes 8714 95 00. As a consequence, the import volumes considered for the establishment of the Community consumption may be slightly understated.
- (69) On the basis of these data, it was found that over the period considered, consumption increased by 17 % from 20 701 027 pieces in 2002 to 24 179 012 pieces in 2005.

Table 1

	2002	2003	2004	2005 (IP)
Community consumption (pieces)	20 701 027	21 688 470	23 357 359	24 179 012
<i>Index</i>	100	105	113	117

4. Imports of saddles from the PRC

(a) Margin of dumping and volume of imports and market share

- (70) As indicated earlier, the present investigation has shown that average dumping margins established for the PRC are above the *de minimis* threshold as defined in Article 9(3) of the basic Regulation, and that the volume of imports from the PRC is not negligible in the sense of Article 5(7) of the basic Regulation.
- (71) Import volumes were established on the basis of Eurostat data. As mentioned above in recital 68, the import data given below may be slightly understated. Furthermore, Eurostat provides statistics concerning import volumes of bicycle saddles in quantities of 100 kg and not in pieces. It was therefore considered as appropriate to use 500 grams per piece as the average weight of imported saddles from China as this weight was reported by one exporting producer and one unrelated importer.
- (72) Imports from the PRC more than quadrupled over the period considered. In fact, they increased from 1 416 814 pieces in 2002 to 6 276 749 pieces in the IP. Correspondingly, the market share increased from 7 % in 2002 to 26 % during the IP. This has to be seen against the background of a consumption which augmented by only 17 %, i.e. relatively less than the increase of imports from the PRC.
- (73) One unrelated importer alleged that import statistics were overestimated because an average weight of 400 grams per piece of saddles was used in the complaint. The company claimed that the average weight of saddles imported from the PRC would be between 600 and 800 grams. However, the same company confirmed during the verification visit which took place at its premises that the average weight of imported saddles from the PRC was 500 grams, i.e. exactly the weight used by the Commission for the conversion of Eurostat data given in 100 kg into pieces. This importer also argued that the import statistics from the PRC were inflated because they included also imports of saddles cover coats which are used for the protection of saddles. As mentioned above in recital 71, the import statistics were based on only one CN code, (CN 8714 95 00) which is not the one under which seat covers are normally declared and therefore the claim of the importer is unfounded.

Table 2

	2002	2003	2004	2005 (IP)
Imports (pieces)	1 416 814	2 048 240	4 351 842	6 276 749
<i>Index</i>	100	145	307	443
Market share	7 %	9 %	19 %	26 %

(b) *Prices*

- (74) The weighted average price of imports of saddles originating in the PRC decreased steadily each year throughout the period considered and overall by 21 %, i.e. from EUR 1,4 per piece to EUR 1,1 per piece between 2002 and the IP.

Table 3

	2002	2003	2004	2005 (IP)
Weighted average cif Community frontier price (EUR/piece)	1,4	1,3	1,1	1,1
<i>Index</i>	100	91	75	79

(c) *Undercutting*

- (75) For the determination of price undercutting, the Commission analysed data referring to the IP. The relevant sales prices of the Community industry were those to independent customers, adjusted where necessary to an ex-works level, i.e. excluding freight costs in the Community and after deduction of discounts and rebates. Prices for the different types of saddles, defined according to base, cushion, cover, fork and weight, were compared with the sales prices of similar types charged by the exporters, net of discounts, and adjusted, where necessary, to cif Community frontier with an appropriate adjustment for the customs duties (1,2 %) and post-importation costs, as incurred by an importer in the Community.
- (76) For the calculation of weighted average undercutting margins, export prices of cooperating exporting producers were taken into consideration. During the IP, the weighted average undercutting margin of cooperating producers amounted to 67,3 %. Moreover, taking into account all imports of saddles, i.e. those of cooperating and non-cooperating exporting producers in the PRC, the calculation of the average undercutting margin based on Eurostat data showed a similar average undercutting margin of 70,1 % for the IP.

5. Situation of the Community industry

- (77) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all economic factors having a bearing on the state of the Community industry during the period considered.
- (78) This analysis was carried out for the sampled companies. However, in order to provide a complete picture of the situation of the Community industry, for those indicators for which reliable information was available for the Community industry as a whole, this information has also been provided below. On this basis, the industry's performances as measured by factors such as prices, wages, investments, profits, return on investment, cash flow and ability to raise capital have been established on the basis of information provided by the sampled companies. The injury factors such as market share, sales volume and production have been established for the full Community industry.

(a) *Production*

- (79) The production volume of the whole Community industry showed a clear negative trend over the period considered. Whereas in 2002 the production volume amounted to 19 546 740 pieces of saddles, during the IP, the Community industry produced only 16 165 936 pieces, which is almost 3,5 million pieces or 17 % less than in 2002. As saddles are in general only produced upon orders received from customers, the negative development of the production volume can be directly linked to the declined demand for saddles produced by the Community industry.

Table 4

	2002	2003	2004	2005 (IP)
Production (pieces)	19 546 740	19 022 491	17 698 103	16 165 936
<i>Index</i>	100	97	91	83

(b) *Capacity of production and capacity utilisation rates*

- (80) The production capacity was established on the basis of the nominal capacity of the production units owned by the Community industry, taking into account interruptions in production as well as the fact that in some few cases part of the capacity had been used for other products manufactured, e.g. handle bars for wheel chairs, with the same production lines.
- (81) The saddles production capacity increased by 5 % over the period considered from 29 492 120 pieces in 2002 to 30 921 920 pieces in the IP. The slight increase in production capacity results from investments made in 2004 and in the IP for the production of some new product types which are used for racing bicycles. The capacity utilisation rate mirrors the decline in production and demand. It steadily decreased during the period considered reaching only a 45 % utilisation in the IP.

Table 5

	2002	2003	2004	2005 (IP)
Capacity of production (pieces)	29 492 120	29 215 880	29 354 000	30 921 920
<i>Index</i>	100	99	100	105
Capacity utilisation	60 %	59 %	53 %	45 %

(c) *Stocks*

- (82) As far as end of year stocks are concerned, the vast majority of production is made in response to orders. Therefore, whilst a decrease in stocks of 35 % was observed over the period considered, it is considered that in this case stocks were not a relevant indicator of injury.

Table 6

	2002	2003	2004	2005 (IP)
Stocks (pieces)	1 365 040	1 192 612	1 000 376	884 829
<i>Index</i>	100	87	73	65

(d) *Investments*

- (83) Between 2002 and 2003, investments for the production of the like product diminished from EUR 3 808 057 to EUR 1 664 147. In 2004 the Community producers stepped up their investments and spent almost double the amount, i.e. EUR 3 381 996 compared to the previous year. During the IP investments amounted to 3 638 962 which is 4 % lower than the level reached at the beginning of the period considered in 2002. During the investigation it was found that investments in buildings, plants and machinery were mainly made to maintain the production capacity and, only in 2004 and the IP, to a lesser extent, to develop new product types. In view of the low capacity utilisation mentioned before, investments were in any case not made with the purpose to increase the overall production volume.
- (84) The investigation revealed that the Community industry is considered as the world leader concerning product design, and innovation of saddles. Between 2000 and the IP, the Community producers designed and marketed over one thousand new types of saddles. R&D accounts for approximately 8 % to 10 % of turnover of the Community industry. In order to keep this position, the Community industry needs to maintain a certain level of investment, even if capacity utilisation is low.

Table 7

	2002	2003	2004	2005 (IP)
Investments (EUR)	3 808 057	1 664 147	3 381 996	3 638 962
<i>Index</i>	100	44	89	96

(e) *Sales volume and market share*

- (85) There are two main sales channels for saddles: the original equipment manufacturer (OEM) market and the 'after market'. In the first case, saddles are sold to be put on a new bicycle and, in the second case saddles are sold in order to replace a used bicycle saddle. It was found that OEM sales account for approximately 60 % and after market sales for approximately 40 % of the total market. Like tyres, saddles are those components of a bicycle which are replaced most frequently.
- (86) Sales volumes of the whole Community industry declined by 20 % over the period considered from 15 109 569 pieces to 12 139 162 pieces in the IP, i.e. the Community industry sold almost three million saddles less in the IP than during 2002. After a small decrease of 1 % in 2003 compared to 2002, the loss in sales volumes was more pronounced in 2004 and the IP.
- (87) In terms of value, over the whole period considered sales of saddles by the Community industry increased only by 1 %. Sales value on the Community market increased by 5 % from EUR 54 460 180 in 2002 to EUR 56 978 530 in 2003 and then further to EUR 58 052 609 in 2004. However, during the IP, the Community industry's sales value decreased by almost EUR three million as compared to the previous year. The fact that sales in value did not develop along the same trend as sales in volume is explained by an increase in average prices which will be explained below.
- (88) Corresponding to the decline in sales volumes, the Community market share also went down significantly from 81 % in 2002 to 58 % in the IP. In other words, the Community industry lost 23 percentage points of its market share over the whole period considered to increasing imports from the PRC.

Table 8

	2002	2003	2004	2005 (IP)
Sales value (EUR)	54 460 180	56 978 530	58 052 609	55 228 738
<i>Index</i>	100	105	107	101
Sales in the EC (pieces)	15 109 569	15 024 427	13 803 151	12 139 162
<i>Index</i>	100	99	91	80
<i>Market share</i>	81 %	77 %	67 %	58 %

(f) *Prices*

- (89) The Community industry's average unit selling price increased by 25 % over the period considered. This price increase can be explained, on the one hand, as a result of the increased cost of raw material, which impacted the whole industry and, on the other hand, by a shift from low tech to high tech product types which incorporate more expensive raw materials and whose production is also more labour intensive.
- (90) The main raw materials used for the production of saddles include plastic shells, coverings, polyurethane, rails and clamps. The prices of these raw materials are indirectly related to the development of the oil price and metal prices. The raw material is a major cost driving component in the production cost of saddles accounting for approximately half of the total production cost and has a direct impact on the sales price evolution.
- (91) It was found that average prices of raw materials remained stable between 2002 and 2003, but increased from 2003 and also during the IP, which was reflected in the higher sales prices of the Community industry
- (92) One unrelated importer alleged that the rise of prices of the Community industry was a result of a change in consumer demand. The company argued that the demand for low price bicycles and accordingly low price saddles has declined whereas the demand for more expensive high quality saddles has increased. This statement is contradicted by the fact that low priced imports from the PRC increased in relative terms considerably more than the overall consumption of saddles in the Community as stated in recital 72.

Table 9

	2002	2003	2004	2005 (IP)
Weighted average price (EUR/piece)	3,6	3,8	4,2	4,5
<i>Index</i>	100	106	117	125

(g) *Profitability and cash flow*

- (93) During the period considered the weighted average profitability on net turnover of the Community industry decreased sharply from 3,8 % in 2002 to only 0,4 % in the IP. Whereas profitability increased to 5,0 % in 2003, it dropped to 3,1 % in 2004 and reached finally 0,4 % during the IP. The low profit margin is a consequence of the fact that the Community industry was unable to sufficiently pass on the price increase in raw materials to its customers.

Table 10

	2002	2003	2004	2005 (IP)
Pre-tax profit margin	3,8 %	5,0 %	3,1 %	0,4 %

The Community industry generated a cash flow of EUR 3 990 473 during the IP which was approximately EUR 1,1 million or 22 % lower than in the year 2002. The still substantial amount of liquidity of the Community industry is explained by the fact that it is a capital intensive industry which requires high depreciation amounts. In general, it could be seen that the liquidity of the Community industry developed in a similar trend as profitability.

Table 11

	2002	2003	2004	2005 (IP)
Cash flow (EUR)	5 084 871	6 655 555	6 574 821	3 990 473
Index	100	131	129	78

(h) *Return on net assets*

- (94) The return on net assets was calculated by expressing the pre-tax net profit of the like product as a percentage of the net book value of fixed assets allocated to the like product. This indicator followed a similar trend as profitability, decreasing from 12 % in 2002 to only 1 % in the IP.

Table 12

	2002	2003	2004	2005 (IP)
Return on net assets	12 %	16 %	10 %	1 %

(i) *Ability to raise capital*

- (95) There was no claim from the Community industry nor indication that it encountered problems to raise capital for its activities and it was therefore concluded that the Community industry, as a whole, was in a position to raise capital for its activities throughout the period considered.

(j) *Employment and wages*

- (96) Employment in the Community industry remained stable over the whole period considered. After a small increase in 2003 and 2004, the Community industry employed 418 people on a full time basis during the IP, i.e. almost the same number as in 2002. However, it is noted that all Community producers outsource substantial parts of their production to other small and medium sized enterprises located in the Community and, in a few cases, almost the entire production process to other small and medium sized enterprises. Therefore, the total amount of people employed on a full time basis in the production of saddles is much higher than the number of employees directly employed by the Community industry. It is estimated that the total number of employees working in the production of the like product is at least three times higher, i.e. approximately 1 200 people during the IP. Average annual wages developed along the same trend as labour cost, i.e. they increased by 5 % over the period considered from EUR 7 784 339 in 2002 to EUR 8 190 911 in the IP, which is below the inflation rate in the Community during the same period.

Table 13

	2002	2003	2004	2005 (IP)
Employees	421	434	456	418
<i>Index</i>	100	103	108	99
Labour cost (EUR/year)	11 427 812	12 136 974	12 319 136	12 121 976
<i>Index</i>	100	106	108	106
Wages (EUR/year)	7 784 339	8 136 410	8 428 090	8 190 911
<i>Index</i>	100	105	108	105

(k) *Productivity*

- (97) Productivity measured in output (production) per employee per year amounted to 42 225 pieces in 2002 and declined steadily over the years to 33 317 pieces in the IP. This decrease is caused by the decreasing production volume.

Table 14

	2002	2003	2004	2005 (IP)
Productivity (pieces/employee)	42 225	39 752	34 388	33 317
<i>Index</i>	100	94	81	79

(l) *Growth*

- (98) While Community consumption increased by 17 % between 2002 and the IP, the sales volume of the Community industry remained stable during the same period. Thus, sales by the Community industry increased far less than the demand during the period considered. On the other hand, the market share of imports from the PRC went up by 19 percentage points.

(m) *Magnitude of the dumping margin and recovery from past dumping*

- (99) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the PRC, this impact cannot be considered negligible.
- (100) The Community industry was not found to be recovering from the effects of past dumping or subsidisation.

6. Conclusion on injury

- (101) The analysis of the injury indicators revealed that the situation of the Community industry deteriorated significantly over the period considered. The majority of injury indicators (net sales in volume, production volume, capacity utilisation, profitability, return on investments, investments, cash flow and employment) follow a negative trend over the period considered.

- (102) Still, some injury indicators show a stable development (net sales in value and ability to raise capital) or, they even show a positive trend (average sales prices, production capacity and closing stocks). However, the increase in sales prices and net sales value during IP cannot be attributed to an improvement of the situation of the Community industry as such, but were a consequence of the increased prices of raw materials and also a shift of the Community industry to the production of higher value product types. As far as closing stocks are concerned, as mentioned in recital 82, in view of the particularity of this industry, closing stocks cannot be considered as relevant for the determination of the injury.
- (103) Given the vastly negative development of the profit-related indicators, the viability of the industry can be considered to be at stake if this situation is not remedied. Indeed, as the Community industry consists of small and medium sized enterprises and operates in a capital intensive business, it is highly unlikely that the Community industry could financially survive a longer period at this level.
- (104) In the light of the foregoing, it is concluded that the Community industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation.

E. CAUSATION

1. Introduction

- (105) In accordance with Article 3(6) and 3(7) of the basic Regulation, the Commission has examined whether the dumped imports of the product concerned originating in the PRC have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time have injured the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effect of the dumped imports

- (106) Imports from the PRC more than quadrupled over the period considered, i.e. they increased by 343 % in terms of volume, and by 19 percentage points in terms of market share. At the same time, average prices of all exporting producers in the PRC undercut the average Community industry prices by 70,1 % in the IP. The substantial increase in the volume of imports from the PRC and their gain in market share during the period considered, at prices which were only a fraction of those of the Community industry, coincided with the evident deterioration of the overall financial situation of the Community industry during the same period.
- (107) Whereas unit prices of imports from PRC steadily declined over the period considered by 21 % from EUR 1,4 in 2002 to EUR 1,1 in the IP, the Community industry's prices increased over the same period by 26 % from EUR 3,6 in 2002 to EUR 4,5 during the IP. This price development into opposite directions can only partly be explained by a different product mix of saddles produced in the Community and the PRC. Moreover, the Community producers have submitted evidence that the access to and the prices of most raw materials are similar in the Community and the PRC. They have also shown that the raw material cost of saddles in the Community increased over the period considered. Indeed, some exporting producers in the PRC sell their products to the Community below cost of the raw material and this clearly shows that this is not a situation where prices are low because of a comparative advantage of the producers in the PRC, but because of the existence of dumping practices.
- (108) The effect of this unfair pricing behaviour of the dumped imports from the PRC was that the Community industry's prices were suppressed and could not even cover the increase of cost of raw materials. This was further confirmed by the significant reduction in profitability by the Community industry.

- (109) Based on the above considerations, it is evident that the low-priced imports from the PRC which significantly undercut the prices of the Community industry have had a determining role in the deterioration of the situation of the Community industry, which is reflected in particular in the decrease of production and sales volumes, market share, and in the sharp decrease of profitability.

3. Effect of other factors

(a) *Non-dumped imports originating in the PRC*

- (110) For one exporting producer the dumping margin established was below the *de minimis* threshold. Therefore, imports of this company were not considered in the injury analysis above. Of all imports from the PRC, the imports of this exporting producer amounted to a range of 28 % up to 33 % in the years 2002 and 2003, to a range between 18 % and 23 % in 2004 and reached a range between 12 % and 17 % in the IP. Average prices of this company still undercut those of the Community industry significantly throughout the period considered. However, the average undercutting margins of this company were much smaller than those of the companies for which dumping was found. In view of the fact that imports from this company were not significant, and, even more important, sharply decreased over the period considered, it is concluded that the non-dumped imports of this exporting producer did not break the causal link, i.e. that dumped imports from the PRC caused material injury to the Community industry.

(b) *Imports originating in third countries other than the country concerned*

- (111) According to Eurostat and to the information collected during the investigation, the main third countries from which saddles are imported are Taiwan, India and Vietnam.
- (112) Imports from Taiwan amounted 1 145 000 pieces in 2002 and increased over the period considered by 25 % to 1 429 200 pieces in the IP. The market share of saddles imported from Taiwan amounted to 6 % in 2002, i.e. the same level as in the IP. Taiwanese imports were made at prices at similar levels of those of the Community industry. As the market share of Taiwanese imports did not increase, but remained stable at 6 % over the period considered and prices were at the same level as Community industry's prices, imports from Taiwan are not considered as having had a negative effect on the situation of the Community industry.
- (113) Imports from India amounted to 204 200 pieces in 2002 and augmented by 30 % to 264 600 in the IP. Average prices of imports from India stayed during the whole period considered well below the level of imports from the PRC. They amounted to EUR 0,63 in 2002, then increased to EUR 0,91 in 2003 after which they declined sharply to EUR 0,47 and reached EUR 0,6 in the IP. However, these imports only represent a market share of 1 % throughout the whole period considered. Therefore, it is concluded that despite the low price level of imports from India, these imports did not have a significant effect on the situation of the Community industry.
- (114) As to imports from Vietnam, Eurostat statistics show a very low level of 4 400 imported saddles in 2002 which augmented to 136 600 pieces in the IP. Prices of imports from Vietnam remained in the same range as prices from the PRC. However, similar as in the case of India, the market share of Vietnamese imports was below 1 % in 2002 and 2003 and merely reached 1 % in 2004 and the IP. Thus, it is concluded that these imports have not had a significant impact on the state of the Community industry.
- (115) It can thus provisionally be concluded that imports other than from the PRC did not contribute to the material injury suffered by the Community industry.

(c) *Infringement of intellectual property rights*

- (116) As mentioned earlier in recital 84, around 8 % to 10 % of the Community industry's turnover is devoted to investments in R&D. These investments include posture studies, tests and the design of new models of saddles. Some Community producers alleged that certain exporting producers from the PRC simply copy the patented European products and are hence able to generate a cost advantage compared to the producers in the Community which is reflected in the low price of saddles imported from the PRC. On the other hand, one unrelated importer submitted that counterfeits were not only originating from the PRC, but that they were also a cause of litigation among the producers in the Community. It is acknowledged that counterfeiting is an important issue in this industry and may indeed have aggravated the situation for the Community industry. In any event, the losses incurred by infringement of intellectual property rights caused by the Community industry itself are not such as to break the strong causal link between the surge of dumped imports and the material injury suffered by the Community industry. It should also be noted that to the extent that dumped imports from the PRC benefited from infringements of intellectual property rights, this could not be considered as another factor as this infringement would still relate to the dumped imports.

4. Conclusion on causation

- (117) The coincidence in time between, on the one hand, the increase in dumped imports from the PRC, the increase in market shares and the undercutting found and, on the other hand, the evident deterioration in the situation of the Community industry, leads to the conclusion that the dumped imports caused the material injury suffered by the Community industry within the meaning of Article 3(6) of the basic Regulation. Other factors were analysed but found not to be a determining reason for the injury suffered.
- (118) Based on the above analysis, which has properly distinguished and separated the effects of all known factors having an effect on the situation of the Community industry from the injurious effect of the dumped imports, it is provisionally concluded that the imports of saddles from the PRC have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

F. COMMUNITY INTEREST

- (119) In accordance with Article 21 of the basic Regulation, it was examined whether, despite the conclusion on injurious dumping, compelling reasons exist for concluding that it is not in the Community interest to adopt measures in this particular case. The likely impact of possible measures on all parties involved in the proceeding and also the consequences of not taking measures have to be considered in this respect.

1. Community industry

- (120) The injurious situation of the Community industry resulted from its difficulty to compete with the low-priced, dumped imports.
- (121) The imposition of measures should enable the Community industry to increase the volume of its sales and to regain market share and thereby generating better economies of scale, thus achieving the necessary profit level to justify continued investments in its production facilities and in research, to remain competitive.
- (122) One importer claimed that one Community producer had a dominant market position, however, without substantiating this allegation. Given the fact that saddles were produced throughout the period considered by at least 10 different competing producers in the Community, and that nothing was found in the course of the investigation to support this allegation, this claim is rejected.

- (123) Should measures not be imposed, the deterioration of the situation of the Community industry would continue. It would not be able to invest in new technologies and to compete effectively with imports from third countries. In addition, if measures are not imposed, the Community industry would continue to be deprived from the big volumes of the market of medium range saddles, therefore be unable to distribute its fixed costs. Indeed, some companies would have to cease the production of the like product and lay off their employees, as was already the case of one Community producer in 2005. It is therefore concluded that the imposition of anti-dumping measures is in the interest of the Community industry.

2. Interest of unrelated importers

- (124) As far as importers are concerned, only two unrelated importers replied to the questionnaire and a verification visit was subsequently carried out to one of them. The volumes of the product concerned imported by these two importers represented 21 % of the total imports in the Community from China and 7 % of the Community consumption.
- (125) In view of the fact that the majority of all saddles imports into the Community are channelled through importers which are not related to exporting producers, imports of these unrelated importers were considered as representative for all other unrelated importers.
- (126) For both importers, imports of the product concerned from the PRC represented 100 % of their total imports of saddles. In the case of one importer, the corresponding sales value of saddles represented 8 % of the importer's total turnover during the IP. The sales of imported saddles from the PRC were profitable during the IP. However, the profitability of the sales of saddles was 0,7 percentage points below the overall profitability of this company which was in a range of approximately 2 % to 6 % in the IP. In the case of the other importer, the sales value of imported saddles in the IP represented only 1,2 % of the company's total turnover and the profitability of the sales of saddles was estimated to be in line with the overall profitability of this company. It can be assumed from the information submitted by other importers that the situation of these two described importers is representative for most importers of saddles from the PRC.
- (127) As both companies imported saddles only from the PRC, it can be concluded that the imposition of measures may indeed have a negative effect on the financial situation of these companies. However, taking into consideration that the sales of saddles only account for a minor share of the companies' total turnover and profit, it is not expected that measures would have a significant financial impact on the overall situation of these two importers. In addition, these companies could also import saddles either from the group of companies for which zero dumping was found, or from other third countries, e.g. Taiwan.

3. Interest of users

- (128) Four users and distributors of the product concerned replied to the questionnaire sent by the Commission. These are companies which use saddles produced in the Community and also imported saddles for the assembly of bicycles. These four companies used a total amount of 1 255 655 saddles during the IP of which more than half (55 %) were saddles originating in the PRC. The number of imported saddles from the PRC and used by the four companies represented 5,7 % of the sales volume of the Community industry and 2,9 % of the total consumption of saddles in the Community during the IP. As far as the assemblers of bicycles are concerned, it was found that saddles constitute only a minor cost component of the total cost of a finished bicycle. On average, saddles account, depending on the model, for 1 % to 4 % of the total cost of a bicycle.

- (129) Two of the four users declared that the imposition of an anti-dumping duty would most likely not have a big effect on their business because an increase in the price of saddles would possibly be passed on to their final customer. Furthermore, they argued that the price difference between saddles produced and sold by the Community industry and imports from China was such, that even after the imposition of anti-dumping duties, saddles originating in the PRC would still remain competitive.
- (130) The other two users did not provide a non-confidential version of their submission. Therefore, in line with Article 19(3), such information was provisionally disregarded.
- (131) One exporting producer claimed that the imposition of measures on imports of saddles was not in the Community interest as it would put the existence of a viable European bicycle manufacturing industry further at risk. The company argued that manufacturers in the Community would stop their assembling business and instead start importing finished bicycles from the PRC despite the existence of an anti-dumping duty on bicycles. In this respect, it should be noted that exporters have no standing with regard to the determination of the Community interest. Nevertheless, the substance of the argument was examined. Given that two of the four users of bicycle saddles declared that the imposition of measures would not have any substantial impact on their businesses because of the low cost of a saddle in the overall cost of production of a bike the argument should in any event be rejected.
- (132) In view of the fact that the four companies purchased an important part of saddles (45 % during the IP) in the Community and given the relatively low importance of a saddle in the total cost of a fully assembled bicycle, it is concluded that the impact on costs resulting from the imposition of anti-dumping measures on saddles would not result in a significant impact in the overall costs of users. In any event, should such impact occur it is highly likely that users of imported saddles will be able to pass on the additional cost.

4. Interest of raw material suppliers and consumers

- (133) One raw material supplier replied to the questionnaire. This company is selling the metallic parts of saddles to producers in the Community, namely frames and springs which are made out of iron, steel, titanium, vanadium, manganese or carbon-steel. The company is in favour of the imposition of anti-dumping duties, as it expects production volumes of the Community industry to increase and consequently a higher demand for its raw materials.
- (134) On the basis of the above findings, and in the absence of any other element or reaction from consumer organisations it is concluded that the impact of the proposed measures on the consumers is not likely to be significant.

5. Conclusion on Community interest

- (135) Following the above, it is concluded that there are no compelling reasons on the grounds of Community interest, why provisional anti-dumping duties should not be imposed.

G. PROVISIONAL ANTI-DUMPING MEASURES

1. Injury elimination level

- (136) In view of the conclusions reached with regard to dumping, resulting injury, causation and Community interest, provisional measures should be imposed in order to prevent further injury being caused to the Community industry by the dumped imports.

- (137) The measures should be imposed at a level sufficient to eliminate the injury caused by these imports without exceeding the dumping margin found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs of production and to obtain overall a profit before tax that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on the sales of the like product in the Community. The pre-tax profit margin used for this calculation was 5 % of turnover, based on the profitability established in previous investigations for producers of bicycle parts which include the Community producers as defined in recital 67.
- (138) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the price undercutting calculations (see recital 75 above), with the non-injurious price of products sold by the Community industry on the Community market. The non-injurious price has been obtained by adjusting the sales price of the Community industry by the actual loss/profit made during the IP and by adding the above mentioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total cif import value.
- (139) In order to calculate the country-wide injury elimination level for all other exporters in the PRC, it should be recalled that the level of cooperation was low. Therefore, the injury margin was calculated as a weighted average of the margin calculated for the cooperating exporter and the highest margins established for representative types exported by the same exporter.
- (140) The injury margins were significantly higher than the dumping margins found.

2. Provisional measures

- (141) In light of the foregoing, it is considered that a provisional anti-dumping duty should be imposed at the level of the dumping margin found, but should not, in accordance with Article 7(2) of the basic Regulation, be higher than the injury margin calculated above.
- (142) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this document with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (143) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates. In order to ensure a proper enforcement of the anti-dumping duty, the countrywide dumping margin should also apply to those producers which did not have any exports to the Community during the IP.

⁽¹⁾ European Commission, Directorate-General for Trade, Direction B, 1049 Brussels, Belgium.

(144) On the basis of the above, the provisional duty rates are:

Cionlli Bicycle (Taicang) Co. Ltd., Shunde Hongli Bicycle Parts Co. Ltd. and Safe Strong Bicycle Parts Shenzhen Co. Ltd.	7,5 %
Giching Bicycle parts (Shenzhen) Co. Ltd. and Velo Cycle Kunshan Co. Ltd.	0 %
All other companies	30,9 %

3. Special monitoring

- (145) In order to minimise the risks of circumvention due to the high difference in the duty rates, it is considered that special measures are needed in this case to ensure the proper application of the anti-dumping duties. Only the imports of the product concerned manufactured by the respective exporting producer can benefit from the specific dumping margin calculated for the producer concerned. These special measures include the following:
- (146) The presentation to the customs authorities of the Member States of a valid commercial invoice which must conform to the requirements set out in the Annex to this Regulation. Imports not accompanied by such an invoice must be made subject to the residual anti-dumping duty applicable to all other companies.
- (147) It is recalled that should the exports by the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the anti-dumping measures, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances, and provided the conditions are met, an anti-circumvention investigation may be initiated. This investigation may, *inter alia*, examine the need for the removal of individual duty rates and the consequent imposition of a country-wide duty.

H. FINAL PROVISION

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of saddles and essential parts thereof i.e., bases, cushions and covers, of bicycles and other cycles (including delivery tricycles), not motorised, of cycles fitted with an auxiliary motor with or without sidecars, of fitness machines and of home trainers, falling within CN codes 8714 95 00, ex 8714 99 90 and ex 9506 91 10 (TARIC codes 8714 99 90 81 and 9506 91 10 10) and originating in the People's Republic of China.

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

Company	Anti-Dumping Duty	TARIC Additional Code
Cionlli Bicycle (Taicang) Co. Ltd., Shunde Hongli Bicycle Parts Co. Ltd. and Safe Strong Bicycle Parts Shenzhen Co. Ltd.	7,5 %	A787
Giching Bicycle parts (Shenzhen) Co. Ltd. and Velo Cycle Kunshan Co. Ltd.	0 %	A788
All other companies	30,9 %	A999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex. If no such invoice is presented, the duty rate applicable to all other companies shall apply.

4. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

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

Article 2

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

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

Article 3

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

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

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

Done at Brussels, 20 December 2006.

For the Commission
Peter MANDELSON
Member of the Commission

ANNEX

The valid commercial invoice referred to in Article 1(3) of this Regulation must include a declaration signed by an official of the company, in the following format:

- (1) The name and function of the official of the company which has issued the commercial invoice.
- (2) The following declaration: 'I, the undersigned, certify that the [volume] of saddles sold for export to the European Community covered by this invoice was manufactured by [company name and address] [TARIC additional code] in the People's Republic of China. I declare that the information provided in this invoice is complete and correct.'

COMMISSION REGULATION (EC) No 2000/2006**of 20 December 2006****amending Regulation (EC) No 1870/2005 by reason of the accession of Bulgaria and Romania to the European Union**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

(ii) or the 2003/04, 2004/05 or 2005/06 import period;

Having regard to the Treaty of Accession of Bulgaria and Romania, and in particular its Article 4(3),

Having regard to the Act of Accession of Bulgaria and Romania, and in particular its Article 41,

Whereas:

(1) Transitional measures should be laid down in order to allow importers from Bulgaria and Romania to benefit from the provisions contained in Commission Regulation (EC) No 1870/2005 of 16 November 2005 opening and providing for the administration of tariff quotas and introducing a system of import licences and certificates of origin for garlic imported from third countries⁽¹⁾. These measures should cover in particular the definition of the reference quantity and the definitions of traditional and new importers.

(2) Regulation (EC) No 1870/2005 should therefore be amended accordingly.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fresh Fruit and Vegetables,

(d) for traditional importers who do not fall within points (a), (b) or (c), the maximum quantity of garlic imported during one of the first three completed import periods during which they have obtained import licences pursuant to Regulation (EC) No 565/2002 or this Regulation.’;

(b) the second paragraph is replaced by the following:

‘Garlic originating in Member States of the Community as constituted at 31 December 2006 or in Bulgaria and Romania shall not be taken into account for the calculation of the reference quantity.’;

(c) the following paragraph is added:

‘Bulgaria and Romania shall choose and apply one of the two methods referred to in point (c) to all traditional importers, in accordance with objective criteria and in such a way as to ensure equal treatment between operators.’

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1870/2005 is amended as follows:

1. Article 2 is amended as follows:

(a) in point 5 of the first paragraph, point (c) is replaced by the following:

‘(c) for traditional importers who imported garlic between 2003 and 2005 into Bulgaria or Romania, the maximum quantity of garlic imported during:

(i) either the 2003, 2004 or 2005 calendar year,

2. In Article 3, the following paragraph 4 is added:

‘4. By way of derogation from paragraphs 1 and 2, as regards the 2006/07, 2007/08 and 2008/09 import periods and only in Bulgaria and Romania:

(a) “traditional importers” means importers, whether natural or legal persons, individuals or groups of operators set up in accordance with national law, who can prove that:

(i) they have imported garlic from countries of origin other than the Member States of the Community as constituted at 31 December 2006 or Bulgaria and Romania in at least two of the previous three completed import periods;

(ii) they have imported at least 50 tonnes of fruit and vegetables as referred to in Article 1(2) of Regulation (EC) No 2200/96 during the preceding calendar year;

⁽¹⁾ OJ L 300, 17.11.2005, p. 19. Regulation as amended by Regulation (EC) No 991/2006 (OJ L 179, 1.7.2006, p. 15).

(iii) the imports referred to in points (i) and (ii) have taken place in Bulgaria or Romania, where the head office of the importer concerned is located;

(b) “new importers” means importers other than traditional importers within the meaning of point (a), whether traders, natural or legal persons, individuals or groups of operators set up in accordance with national law, who can prove that:

(i) they have imported at least 50 tonnes of fruit and vegetables as referred to in Article 1(2) of Regulation (EC) No 2200/96 in each of the two preceding calendar years from countries of origin other than the Member States of the Community as constituted at 31 December 2006 or Bulgaria and Romania;

(ii) the imports referred to in point (i) have taken place in Bulgaria or Romania, where the head office of the importer concerned is located.’

3. Annex II is amended as follows:

(a) the following mention is inserted before the mention in Spanish:

‘— *in Bulgarian*: Мито 9,6 % — Регламент (ЕО) № 1870/2005;’

(b) the following mention is inserted after the mention in Portuguese:

‘— *in Romanian*: Taxa vamală: 9,6 % — Regulamentul (CE) nr. 1870/2005;’.

4. Annex III is amended as follows:

(a) the following mention is inserted before the mention in Spanish:

‘— *in Bulgarian*: Лицензия, издадена и валидна само за тримесечие от 1 (месец) до 28/29/30/31 (месец);’

(b) the following mention is inserted after the mention in Portuguese:

‘— *in Romanian*: licență emisă și valabilă numai pentru trimestrul de la 1 [luna] până la 28/29/30/31[luna].’

Article 2

This Regulation shall enter into force subject to and on the date of the entry into force of the Treaty of Accession of Bulgaria and Romania.

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

Done at Brussels, 20 December 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

COMMISSION REGULATION (EC) No 2001/2006

of 21 December 2006

adapting Regulation (EC) No 2295/2003 introducing detailed rules for implementing Council Regulation (EEC) No 1907/90 on certain marketing standards for eggs by reason of the accession of Bulgaria and Romania to the European Union

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of Bulgaria and Romania, and in particular Article 4(3) thereof,

Having regard to the Act of Accession of Bulgaria and Romania, and in particular Article 56 thereof,

Whereas:

- (1) Certain technical amendments are necessary in Commission Regulation (EC) No 2295/2003⁽¹⁾, by reason of the accession of Bulgaria and Romania to the European Union.
- (2) Annexes I, II and V to Regulation (EC) No 2295/2003 contain certain entries in all the languages of the Community as constituted at 31 December 2006. Those Annexes should also include the entries in Bulgarian and in Romanian.
- (3) Regulation (EC) No 2295/2003 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2295/2003 is amended as follows:

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

Done at Brussels, 21 December 2006.

1. Article 4(2) is replaced by the following:

‘2. The competent authority shall allot the packing centre a distinguishing approval number with an initial code as follows:

BE	Belgium	LU	Luxembourg
BG	Bulgaria	HU	Hungary
CZ	Czech Republic	MT	Malta
DK	Denmark	NL	Netherlands
DE	Germany	AT	Austria
EE	Estonia	PL	Poland
GR	Greece	PT	Portugal
ES	Spain	RO	Romania
FR	France	SI	Slovenia
IE	Ireland	SK	Slovakia
IT	Italy	FI	Finland
CY	Cyprus	SE	Sweden
LV	Latvia	UK	United Kingdom’
LT	Lithuania		

2. Annexes I, II and V are amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force subject to and on the date of the entry into force of the Treaty of Accession of Bulgaria and Romania.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 340, 24.12.2003, p. 16. Regulation as last amended by Regulation (EC) No 89/2006 (OJ L 15, 20.1.2006, p. 30).

ANNEX

The Annexes to Regulation (EC) No 2295/2003 are amended as follows:

1. Annex I is replaced by the following:

‘ANNEX I

1. Minimum durability date

Language codes	On eggs	On packs
BG	срок на годност	срок на годност
ES	Cons. pref.	Consúmase preferentemente antes del
CS	Spotřebujte or S.	Spotřebujte do
DA	Mindst holdbar til or M.H.	Mindst holdbar til
DE	Mind. haltbar or M.H.D.	Mindestens haltbar bis
ET	Parim enne or PE	Parim enne
EL	Ανάλωση πριν από	Ανάλωση κατά προτίμηση πριν από
EN	Best before or B.B. ⁽¹⁾	Best before
FR	à cons. de préf. av. or DCR ⁽¹⁾	A consommer de préférence avant le
IT	Entro	da consumarsi preferibilmente entro
LV	Izlietot līdz or I.L. ⁽¹⁾	Izlietot līdz
LT	Geriausi iki or G ⁽¹⁾	Geriausi iki
HU	Min. meg. or M.M ⁽¹⁾	Minőségét megőrzi
MT	L-ahjar jintuża sa	L-ahjar jintuża sa
NL	Tenm. houdb. tot or THT ⁽¹⁾	Tenminste houdbaar tot
PL	Najlepiej spożyć przed or N.S.P. ⁽¹⁾	Najlepiej spożyć przed
PT	Cons. pref.	A consumir de preferência antes de
RO	d.d.m.	A se consuma, de preferință, înainte de
SK	Minimálna trvanlivosť do or M.T.D. ⁽¹⁾	Minimálna trvanlivosť do
SL	Uporabno najmanj do or U.N.D. ⁽¹⁾	Uporabno najmanj do
FI	parasta ennen	parasta ennen
SV	bäst före	Bäst före

⁽¹⁾ If the abbreviation is used, its meaning must be clearly shown on the package.

2. Packing date

Language codes	On eggs	On packs
BG	Дата на опаковане	Дата на опаковане
ES	Emb.	Embalado el:
CS	Baleno or D. B. ⁽¹⁾	Datum balení
DA	Pakket	Pakket den:
DE	Verp.	Verpackt am:
ET	Pakendamiskoopäev or PK	Pakendamiskoopäev:
EL	Συσκευασία	Ημερομηνία συσκευασίας:
EN	Packed or pkd	Packing date:
FR	Emb. le	Emballé le:
IT	Imb.	Data d'imballaggio:
LV	Iepakots	Iepakots
LT	Supakuota or PK ⁽¹⁾	Pakavimo data
HU	Csom.	Csomagolás dátuma
MT	Ippakkjat	Data ta' l-ippakkjar:
NL	Verp.	Verpakt op:
PL	Zapakowano w dniu or ZWD	Zapakowano w dniu
PT	Emb.	Embalado em:
RO	Amb.	Ambalat la
SK	Balené dňa or B.D.	Balené dňa
SL	Pakirano or Pak.	Datum pakiranja
FI	Pakattu	Pakattu:
SV	förp. Den	Förpackat den:

⁽¹⁾ If the abbreviation is used, its meaning must be clearly shown on the package.

3. Recommended sell-by date

Language codes	
BG	Препоръчителна дата за продажба
ES	Vender antes
CS	Prodat do
DA	Sidste salgsdato
DE	Verkauf bis
ET	Viimane soovitatav müügikuupäev or VSM
EL	Πώληση
EN	Sell by
FR	à vend. préf. av. or DVR ⁽¹⁾
IT	racc.
LV	Realizēt līdz
LT	Parduoti iki
HU	Forgalomba hozható: ...-ig
MT	Ghandu jinbiegh sa
NL	Uiterste verkoopdatum or Uit. verk. dat.
PL	Sprzedaż do dnia
PT	Vend. de pref. antes de
RO	A se vinde înainte de
SK	Predávať do
SL	Prodati do
FI	viimeinen myyntipäivä
SV	sista försäljningsdag

⁽¹⁾ If the abbreviation is used, its meaning must be clearly shown on the package.

4. Date of laying

Language codes	
BG	Дата на снасяне
ES	Puesta
CS	Sneseno
DA	Læggedato
DE	Gelegt am
ET	Munemiskuupäev
EL	Ωτοκία
EN	Laid
FR	Pondu le
IT	Dep.
LV	Izdēts
LT	Padėta
HU	Tojás rakás napja
MT	Tbiedu
NL	Gelegd op
PL	Zniesione w dniu
PT	Postura
RO	Produs la
SK	Znáška
SL	Zneseno
FI	munintapäivä
SV	värpta den'

2. Annex II is replaced by the following:

‘ANNEX II

Terms referred to in Article 13 for the indication of types of farming: (a) on packs; (b) on eggs

Languages codes		1	2	3
BG	(a)	яйца от кокошки – свободно отглеждане на открито	яйца от кокошки – подово отглеждане	яйца от кокошки – клетъчно отглеждане
	(b)	яйца от кокошки – свободно отглеждане на открито	яйца от кокошки – подово отглеждане	яйца от кокошки – клетъчно отглеждане
ES	(a)	Huevos de gallinas camperas	Huevos de gallinas criadas en el suelo	Huevos de gallinas criadas en jaula
	(b)	Camperas	Suelo	Jaula
CS	(a)	Vejce nosnic ve volném výběhu	Vejce nosnic v halách	Vejce nosnic v klecích
	(b)	Výběh	Hala	Klec
DA	(a)	Frilandsæg	Skrabeæg	Buræg
	(b)	Frilandsæg	Skrabeæg	Buræg
DE	(a)	Eier aus Freilandhaltung	Eier aus Bodenhaltung	Eier aus Käfighaltung
	(b)	Freiland	Boden	Käfig
ET	(a)	Vabalt peetavate kanade munad	Õrrekanade munad	Puuris peetavate kanade munad
	(b)	Vabapidamine or V	Õrrelpidamine or Õ	Puurispidamine or P
EL	(a)	Αυγά ελεύθερης βοσκής	Αυγά αχυρώνα	Αυγά κλωβοστοιχίας
	(b)	Ελεύθερης βοσκής	Αχυρώνα	Κλωβοστοιχία
EN	(a)	Free range eggs	Barn eggs	Eggs from caged hens
	(b)	Free range or F/range	Barn	Cage
FR	(a)	Œufs de poules élevées en plein air	Œufs de poules élevées au sol	Œufs de poules élevées en cage
	(b)	Plein air	Sol	Cage
IT	(a)	Uova da allevamento all'aperto	Uova da allevamento a terra	Uova da allevamento in gabbie
	(b)	Aperto	A terra	Gabbia
LV	(a)	Brīvās turēšanas apstākļos dētās olas	Kūti dētās olas	Sprostos dētās olas
	(b)	Brīvībā dēta	Kūti dēta	Sprostā dēta
LT	(a)	Laisvai laikomų vištų kiaušiniai	Ant kraiko laikomų vištų kiaušiniai	Narvuose laikomų vištų kiaušiniai
	(b)	Laisvų	Ant kraiko	Narvuose

Languages codes		1	2	3
HU	(a)	Szabad tartásban termelt tojás	Alternatív tartásban termelt tojás	Ketreces tartásból származó tojás
	(b)	Szabad t.	Alternatív	Ketreces
MT	(a)	Bajd tat-tiġieġ imrobbija barra	Bajd tat-tiġieġ imrobbija ma' l-art.	Bajd tat-tiġieġ imrobbija fil-gaġeġ
	(b)	Barra	Ma' l-art	Gaġġa
NL	(a)	Eieren van hennen met vrije uitloop	Scharreleieren	Kooieieren
	(b)	Vrije uitloop	Scharrel	Kooi
PL	(a)	Jaja z chowu na wolnym wybiegu	Jaja z chowu ściółkowego	Jaja z chowu klatkowego
	(b)	Wolny wybieg	Ściółka	Klatka
PT	(a)	Ovos de galinhas criadas ao ar livre	Ovos de galinhas criadas no solo	Ovos de galinhas criadas em gaiolas
	(b)	Ar livre	Solo	Gaiola
RO	(a)	Ouă de găini crescute în aer liber	Ouă de găini crescute în hale la sol	Ouă de găini crescute în baterii
	(b)	Aer liber	Sol	baterii
SK	(a)	Vajcia z chovu na voľnom výbehu	Vajcia z podstielkového chovu	Vajcia z klieťkového chovu
	(b)	Voľný výbeh	Podstielkové	Klieťkové
SL	(a)	Jajca iz proste reje	Jajca iz hlevske reje	Jajca iz baterijske reje
	(b)	Prosta reja	Hlevska reja	Baterijska reja
FI	(a)	Ulkokanojen munia	Lattiakanojen munia	Häkkikanojen munia
	(b)	Ulkokanan	Lattikanan	Häkkikanan
SV	(a)	Ägg från utehöns	Ägg från frigående höns inomhus	Ägg från burhöns
	(b)	Frigående (alt. Frig.) ute	Frigående (alt. Frig.) inne	Burägg'

3. Annex V is replaced by the following:

‘ANNEX V

Entries referred to in Article 16(6)

- *in Bulgarian:* яйца, предназначени изключително за преработка, съгласно член 16, параграф 6 от Регламент (ЕО) № 2295/2003.
 - *in Spanish:* huevos destinados exclusivamente a la transformación, de conformidad con lo dispuesto en el apartado 6 del artículo 16 del Reglamento (CE) n° 2295/2003.
 - *in Czech:* vejce určená výhradně ke zpracování v souladu s čl. 16, odst. 6 Nařízení (ES) č. 2295/2003.
 - *in Danish:* æg, der udelukkende er bestemt til forarbejdning, jf. artikel 16, stk. 6, i forordning (EF) nr. 2295/2003.
 - *in German:* Eier ausschließlich bestimmt zur Verarbeitung gemäß Artikel 16 Absatz 6 der Verordnung (EG) Nr. 2295/2003.
 - *in Estonian:* eranditult ümbertöötlemisele kuuluvad munad, vastavalt määruse (EÜ) nr 2295/2003 artikli 16 lõikele 6.
 - *in Greek:* αυγά που προορίζονται αποκλειστικά για την μεταποίησή τους, σύμφωνα με το άρθρο 16, παράγραφος 6 του κανονισμού (ΕΚ) αριθ. 2295/2003.
 - *in English:* eggs intended exclusively for processing in accordance with Article 16(6) of Regulation (EC) No 2295/2003.
 - *in French:* œufs destinés exclusivement à la transformation, conformément à l'article 16, paragraphe 6, du règlement (CE) n° 2295/2003.
 - *in Italian:* uova destinate esclusivamente alla trasformazione, in conformità dell'articolo 16, paragrafo 6, del regolamento (CE) n. 2295/2003.
 - *in Latvian:* olas, kas paredzētas tikai pārstrādei, saskaņā ar regulas (EK) Nr. 2295/2003 16. panta 6. punktu.
 - *in Lithuanian:* tik perdirbti skirti kiaušiniai, atitinkantys Reglamento (EB) Nr. 2295/2003 16 straipsnio 6 dalies reikalavimus.
 - *in Hungarian:* A 2295/2003/EK rendelet 16. cikke (6) bekezdésének megfelelően kizárólag feldolgozásra szánt tojás.
 - *in Maltese:* bajd destinat esklussivament għall-konverżjoni, f'konformità ma' l-Artikolu 16, Paragrafu 6 tar-Regolament (KE) Nru 2295/2003.
 - *in Dutch:* eieren die uitsluitend bestemd zijn voor verwerking, overeenkomstig artikel 16, lid 6, van Verordening (EG) nr. 2295/2003.
 - *in Polish:* jaja przeznaczone wyłącznie dla przetwórstwa, zgodnie z artykułem 16, paragraf 6 rozporządzenia (WE) nr 2295/2003.
 - *in Portuguese:* ovos destinados exclusivamente à transformação, em conformidade com o n.º 6 do artigo 16.º do Regulamento (CE) n.º 2295/2003.
 - *in Romanian:* ouă destinate exclusiv procesării, conform articolului 16 alineatul 6 din Regulamentul (CE) nr. 2295/2003.
 - *in Slovak:* vajcia určené výhradne na spracovanie podľa článku 16, odsek 6 nariadenia (ES) č. 2295/2003.
 - *in Slovenian:* jajca namenjena izključno predelavi, v skladu s 6. odstavkom 16. člena uredbe (CE) št. 2295/2003.
 - *in Finnish:* Yksinomaan jalostettaviksi tarkoitettuja munia asetuksen (EY) N:o 2295/2003 16 artiklan 6 kohdan mukaisesti.
 - *in Swedish:* Ägg uteslutande avsedda för bearbetning, i enlighet med artikel 16.6 i förordning (EG) nr 2295/2003.’
-

**COMMISSION REGULATION (EC) No 2002/2006
of 21 December 2006**

amending Regulation (EC) No 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001⁽¹⁾, and in particular Article 145(c) thereof,

Whereas:

- (1) Commission Regulation (EC) No 795/2004⁽²⁾ introduces the implementing rules for the single payment scheme as from 2005.
- (2) Article 54(3) of Regulation (EC) No 1782/2003 provides that farmers shall set aside from production the hectares eligible for set-aside entitlements and Article 56(1) of that Regulation stipulates that the use of land declared as set aside for agricultural purpose is in general prohibited.
- (3) Article 32(1) of Regulation (EC) No 795/2004 provides that areas set aside must so remain for a period commencing on 15 January at the latest and ending on 31 August at the earliest.
- (4) The Commission has frequently provided for derogation from those rules to respond to the fodder needs of farmers in regions affected by natural disasters, in particular, droughts. The special circumstances of local natural disaster require an analysis and a decision in good time. Experience shows that to deal appropriately and in due time with local situations it would be appropriate to give to the Member States the responsibility of such decisions, provided that exceptional circumstances justify them.

- (5) It is therefore appropriate that Member States take the decision to recognise severe natural disasters seriously affecting land on holdings in a given region and to authorise all producers affected to use land declared as set aside for animal feed purposes in good time and notify it to the Commission. Member States should notify the Commission of such national decisions and notably of the adverse climatic conditions that justify them.
- (6) Regulation (EC) No 795/2004 should therefore be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 795/2004 is amended as follows:

In Article 32 the following paragraph is added:

‘5. In cases as referred to in Article 40(4) (c) of Regulation (EC) No 1782/2003, Member States may authorise all producers affected to use land declared as set aside for animal feed purposes for the year of the single application. Member States shall take all necessary measures to ensure that the set-aside area subject to the authorisation is not used for lucrative purposes, and in particular that no fodder produced on that set-aside land is sold.

Member States shall notify to the Commission their decision on the authorisation and its justification.’

Article 2

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

⁽¹⁾ OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 1405/2006 (OJ L 265, 26.9.2006, p. 1).

⁽²⁾ OJ L 141, 30.4.2004, p. 1. Regulation as last amended by Regulation (EC) No 1291/2006 (OJ L 236, 31.8.2006, p. 20).

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

Done at Brussels, 21 December 2006.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 2003/2006**of 21 December 2006****laying down detailed rules for the financing by the European Agricultural Guarantee Fund (EAGF) of expenditure relating to the common organisation of the markets in fishery and aquaculture products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products ⁽¹⁾, and in particular Article 35(3) thereof,

Whereas:

(1) Article 3(2)(f) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽²⁾ provides that European Agricultural Guarantee Fund (EAGF) expenditure relating to fisheries markets is to be managed in a centralised manner.

(2) Article 35 of Regulation (EC) No 104/2000 specifies the types of expenditure that are incurred by the Member States.

(3) The financing of this expenditure follows the rules of centralised direct management between the Commission and the Member States.

(4) In order to ensure that Community funds are soundly managed and to protect the financial interests of the Community, Regulation (EC) No 1290/2005 contains certain obligations for Member States concerning the management and control of these funds, as well as providing information regarding their legal and administrative framework for fulfilment of these obligations and to recover undue amounts if irregularities are detected in the management of these funds. Furthermore, the Communities' financial interests in relation to the expenditure financed under Article 35 of Regulation (EC) No 104/2000 are protected by the relevant rules pertaining to the protection of those interests in Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of

the European Communities ⁽³⁾, Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽⁴⁾, Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽⁵⁾ and Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests ⁽⁶⁾.

(5) To ensure sound management of financial flows, in particular because the Member States themselves mobilise, in a first step, the funds to cover the expenditure referred to in Article 35 of Regulation (EC) No 104/2000 before the Commission reimburses their expenditure on a biannual basis, the Member States should collect the relevant information concerning the expenditure and transmit it to the Commission together with the declaration of expenditure.

(6) The Commission should reimburse Member States biannually on the basis of those declarations of expenditure and the supporting documents to that declaration.

(7) To enable the Commission to make efficient use of information from the Member States, that information should be sent electronically.

(8) To avoid the application of different exchange rates for aid paid to producer organisations in currencies other than the euro, on the one hand, and in the declaration of expenditure, on the other, Member States concerned should apply the same exchange rate in their declarations of expenditure as that used when making those payments to the beneficiaries. The exchange rates applicable must be laid down according to operative events as defined by Commission Regulation (EC) No 1925/2000 establishing the operative events for the exchange rates to be applied when calculating certain amounts provided for by the mechanisms of Council Regulation (EC) No 104/2000 on the common organisation of the market in fishery and aquaculture products ⁽⁷⁾.

⁽¹⁾ OJ L 17, 21.1.2000, p. 22. Regulation as last amended by Regulation (EC) No 1759/2006 (OJ L 335, 1.12.2006, p. 3).

⁽²⁾ OJ L 209, 11.8.2005, p. 1. Regulation as last amended by Regulation (EC) No 320/2006 (OJ L 58, 28.2.2006, p. 42).

⁽³⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁴⁾ OJ L 136, 31.5.1999, p. 1.

⁽⁵⁾ OJ L 292, 15.11.1996, p. 2.

⁽⁶⁾ OJ L 312, 23.12.1995, p. 1.

⁽⁷⁾ OJ L 230, 12.9.2000, p. 7.

- (9) In order to provide a legal basis for the payments made in the first reference period, it is appropriate to apply this Regulation with retroactive effect as from 16 October 2006,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards the financing by the European Agricultural Guarantee Fund (EAGF) of expenditure incurred by Member States under the common organisation of the markets in fishery and aquaculture products.

Article 2

Definitions

For the purposes of this Regulation the following definition shall apply:

'Expenditure' means expenditure incurred by the Member States as referred to in Article 35(1) of Regulation (EC) No 104/2000.

Article 3

Competent authority

Each Member State shall designate its competent authority for the implementation of this Regulation and notify it to the Commission.

Article 4

Declarations of expenditure

1. Each Member State shall draw up a declaration of expenditure in accordance with the model in the Annex. The declaration of expenditure shall consist of a statement, broken down according to the nomenclature of the budget of the European Communities and by type of expenditure on the basis of a detailed nomenclature made available to the Member States. It shall cover:

- (a) the expenditure incurred during the previous six-month reference period;
- (b) total expenditure incurred from the beginning of the financial year until the end of the previous six-month reference period.

2. Each Member State shall collect all the information relevant to the declaration of expenditure.

3. The reference periods shall be the six-month periods from 16 October until 15 April and from 16 April until 15 October.

4. The declaration of expenditure may incorporate corrections to the amounts declared for previous reference periods.

5. The competent authorities of the Member States shall submit their declaration of expenditure together with the information, referred to in paragraph 2, to the Commission electronically, respectively on 10 May and 10 November at the latest.

Article 5

Biannual payments

1. The appropriations necessary to finance the expenditure shall be made available to Member States by the Commission in the form of biannual reimbursements, (hereinafter referred to as 'biannual payments').

The amounts of the biannual payments shall be fixed in the basis of the declaration of expenditure submitted by the Member States in accordance with Article 4.

2. Biannual payments shall be made to each Member State within 60 days after the complete declaration of expenditure by the Member State has been received by the Commission. The declaration shall be deemed complete if the Commission does not request further information within 30 days from receipt of declaration.

3. Until they receive transfer of the biannual payments from the Commission, the Member States shall mobilise the resources required to undertake expenditure.

Article 6

Exchange rates to be applied

The exchange rate to be used by Member States for their declaration of expenditure shall be the rate most recently fixed by the European Central Bank (ECB) prior to the corresponding operative events as defined in Regulation (EC) No 1925/2000.

Article 7

Entry into force and application

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

It shall apply from 16 October 2006.

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

Done at Brussels, 21 December 2006.

For the Commission
Joe BORG
Member of the Commission

ANNEX

DECLARATION OF EXPENDITURE

Data broken down according to the nomenclature of the budget of the European Communities and by type of expenditure

Content of declaration of expenditure to be transmitted to the Commission by electronic mail

Header of the declaration

The header of the declaration comprises:

- an identifier of the message type and of the Member State transmitting the data (N.B.: this will be used to verify that the user forwarding the declaration is actually entitled to do so on behalf of the Member State concerned). The identifier will be sent to you by the Commission,
- the period of expenditure covered by the declaration,
- the language of the declaration.

Body of the declaration

The body of the declaration comprises the following for each sub-item of the EAGF nomenclature:

- the identifier of the sub-item (e.g. 110201002610033),
- the wording of the sub-item in the language chosen in the header of the declaration,
- the amount declared for the period concerned (N) and the cumulative amount declared since the start of the financial year. All amounts must be declared in Euro.

End section

The following appears after the list of all the sub-items:

- the total amount declared for the period concerned (N) and the total cumulative amount declared since the start of the financial year,
- space for comments.

Syntax of the message

```
<I>[IDENTIFICATION]
<C>001<V>[PERIOD]
<C>011<V>[LANGUAGE]
<C>002<V>[SUBITEM]
<C>012<V>[DESCRIPTION]
<C>003<V>[AMOUNT]/[AMOUNT CUMUL]
<...>
<...>
<C>002<V>[SUBITEM]
<C>012<V>[DESCRIPTION]
<C>003<V>[AMOUNT]/[AMOUNT CUMUL]
<C>004<V>[AMOUNT TOT]/[AMOUNT CUMUL TOT]
<C>006<V>[COMMENT]
```

Description of the fields

Name	Format	Description
Header of the declaration: occurrence of data = 1		
[IDENTIFICATION] *		Identification code given by DG FISH
[PERIOD] *	Date (YYYYMM)	Expenditure period
[LANGUAGE] *	(2 characters)	ISO code for the language
Body of the declaration: occurrence of data = 1 to n		
[SUBITEM] *	Number (15)	Sub-item
[DESCRIPTION] *	Free text (600)	Wording of the sub-item
[AMOUNT] *	Number (15,2)	Amount declared
[AMOUNT CUMUL] *	Number (15,2)	Cumulative amount
End section: occurrence of data = 1		
[AMOUNT TOT] *	Number (15,2)	Total amount declared
[AMOUNT CUMUL TOT] *	Number (15,2)	Cumulative total amount
[COMMENT]	Free text (80)	Comments
<i>Fields marked with an asterisk are compulsory.</i>		

Example

```

<I>FISHCYP
<C>001<V>200605
<C>011<V>EN
<C>002<V>110201002610025
<C>012<V>Private storage – aid...
<C>003<V>10000,00/10000,00
<C>002<V>110201002610033
<C>012<V>Compensation payments – operational programmes...
<C>003<V>32417,34/32417,34
<...>
<...>
<...>
<C>002<V>110201002610041
<C>012<V>Compensation payments – tuna...
<C>003<V>10000,00/10000,00
<C>004<V>478378,38/478378,38
<C>006<V>No Comment

```

COMMISSION REGULATION (EC) No 2004/2006**of 22 December 2006****amending Regulation (EEC) No 2273/93 determining the intervention centres for cereals, and adapting the said regulation due to the accession of Bulgaria and Romania**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of Bulgaria and Romania, and in particular Article 4(3) thereof

Having regard to the Act of Accession of Bulgaria and Romania, and in particular Article 56 thereof,

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 6(a) thereof,

Whereas:

- (1) A number of Member States have submitted requests to make amendments to some of centres for cereals listed in the Annex to Commission Regulation (EEC) No 2273/93 ⁽²⁾ with a view to improving their location or responding better to the conditions required. Their requests should be granted.

- (2) In view of the accession of Bulgaria and Romania, the intervention centres must be determined for those new Member States and be listed in Regulation (EEC) No 2273/93.

- (3) Regulation (EEC) No 2273/93 should therefore be amended accordingly.

- (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

The Annex to Regulation (EEC) No 2273/93 is hereby amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2007. However, points 1, 2 and 6 of the Annex apply subject to and from the date of the entry into force of the Treaty of Accession of Bulgaria and Romania.

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

Done at Brussels, 22 December 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽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 207, 18.8.1993, p. 1. Regulation as last amended by Regulation (EC) No 1805/2004 (OJ L 318, 19.10.2004, p. 9).

ANNEX

The Annex to Regulation (EEC) No 2273/93 is amended as follows:

1. The title, the explanatory notes before the table and the titles of the columns are replaced by the following:

‘AHEKC — ANEXO — PŘÍLOHA — BILAG — ANHANG — LISA — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO — PIELIKUMS — PRIEDAS — MELLÉKLET — BIJLAGE — ZAŁĄCZNIK — ANEXO — ANEXĂ — PRÍLOHA — PRILOGA — LIITE — BILAGA

1. Знакът + означава, че определеното място се счита за интервенционен център за въпросния вид зърно.
2. Знакът – означава, че определеното място не трябва да се счита за интервенционен център за въпросния вид зърно.
1. El signo + significa que el lugar indicado se considera centro de intervención para el cereal en cuestión.
2. El signo – significa que el lugar indicado no ha de considerarse centro de intervención para el cereal en cuestión.
1. Označení + znamená, že uvedené místo je považováno za intervenční centrum pro příslušnou obilovinu.
2. Označení – znamená, že uvedené místo není považováno za intervenční centrum pro příslušnou obilovinu.
1. Tegnet + angiver, at det anførte sted betragtes som interventionscenter for den pågældende kornsort.
2. Tegnet – angiver, at det anførte sted ikke betragtes som interventionscenter for den pågældende kornsort.
1. Das Zeichen + bedeutet, dass der angegebene Ort als Interventionsort für die betreffende Getreideart gilt.
2. Das Zeichen – bedeutet, dass der angegebene Ort nicht als Interventionsort für die betreffende Getreideart gilt.
1. Märke + näitab, et tähistatud piirkonda käsitletakse nimetatud teravilja sekkumiskeskusena.
2. Märke – näitab, et tähistatud piirkonda ei käsitleta nimetatud teravilja sekkumiskeskusena.
1. Το σημείο + καθορίζει ότι ο αναγραφόμενος τόπος θεωρείται ως κέντρο παρεμβάσεως για τα εν λόγω σιτηρά.
2. Το σημείο – καθορίζει ότι ο αναγραφόμενος τόπος δεν θεωρείται ως κέντρο παρεμβάσεως για τα εν λόγω σιτηρά.
1. The sign + indicates that the location shown is treated as an intervention centre for the cereal in question.
2. The sign – indicates that the location shown is not to be treated as an intervention centre for the cereal in question.
1. Le signe + précise que le lieu indiqué est considéré comme centre d'intervention pour la céréale en cause.
2. Le signe – précise que le lieu indiqué n'est pas à considérer comme centre d'intervention pour la céréale en cause.
1. Il segno + significa che il luogo indicato è considerato centro d'intervento per il cereale in causa.
2. Il segno – significa che il luogo indicato non è da considerarsi centro di intervento per il cereale in causa.
1. Zīme + norāda uz to, ka šī vieta uzskatāma par intervences centru minētajiem graudaugiem.
2. Zīme – norāda uz to, ka šī vieta nav uzskatāma par intervences centru minētajiem graudaugiem.
1. Ženklas + nurodo, kad tam tikri produktai yra sandėliuojami intervencinėje agentūroje.
2. Ženklas – nurodo, kad tam tikri produktai nėra sandėliuojami intervencinėje agentūroje.
1. A + jel azt jelzi, hogy a feltüntetett hely a kérdéses gabonaféle szemponjtábol intervenció központnak minősül.
2. A – jel azt jelzi, hogy a feltüntetett hely a kérdéses gabonaféle szemponjtábol nem minősül intervenció központnak.
1. Het teken + geeft aan, dat deze plaats interventiecentrum is voor de betrokken graansoort.
2. Het teken – geeft aan, dat deze plaats geen interventiecentrum is voor de betrokken graansoort.
1. Znak + oznacza, że wskazane miejsce traktuje się jako centrum interwencji w odniesieniu do danego zboża.
2. Znak – oznacza, że wskazanego miejsca nie należy traktować jako centrum interwencji w odniesieniu do danego zboża.
1. O sinal + significa que a localidade indicada é considerada centro de intervenção para o cereal em questão.
2. O sinal – significa que a localidade indicada não é considerada centro de intervenção para o cereal em questão.
1. Semnul ‘+’ indică faptul că locul menționat este considerat ca si centru de intervenție pentru cereala în cauză.
2. Semnul ‘-’ indică faptul că locul menționat nu este considerat ca si centru de intervenție pentru cereala în cauză.

1. Znamienko + označuje, že uvedené miesto sa považuje za intervenčné centrum pre daný druh obilniny.
2. Znamienko – označuje, že uvedené miesto sa nepovažuje za intervenčné centrum pre daný druh obilniny.
1. Znak + pomeni, da se prikazana lokacija šteje za intervencijski center za zadevno žito.
2. Znak – pomeni, da se prikazana lokacija ne šteje za intervencijski center za zadevno žito.
1. Merkki + ilmaisee, että mainittu paikka on kyseisen viljan interventiokeskus.
2. Merkki – ilmaisee, että mainittu paikka ei ole kyseisen viljan interventiokeskus.
1. Tecknet + indikerar att platsen används för intervention av det aktuella spannmålsslaget.
2. Tecknet – indikerar att platsen inte används för intervention av det aktuella spannmålsslaget

1	2	4	5	6	7
Интервенционен Centros de intervención Intervenční centrum Interventionscentre Interventionsort Sekkumiskeskus Κέντρα παρεμβάσεως Intervention centres Centres d'intervention Centri di intervento Intervences centri Intervencinis centras Intervencióis központok Interventiecentrum Centrum interwencji Centros de intervenção Centre de intervenție Intervenčné centrum Intervencijski center Interventiokeskus Interventionsort	Обикновена пшеница Trigo blando Pšenice setá Blød hvede Weichweizen Harilik nisu Σίτος μαλακός Common wheat Froment tendre Fruento tenero Mikstie kvieši Paprastieji kviečiai Búza Zachte tarwe Pszenica zwyczajna Trigo mole grâu comun Pšenica obyčajná Navadna pšenica Tavallinen vehnä Vete	Ечемик Cebada Ječmen Byg Gerste Oder Κριθή Barley Orge Orzo Mieži Miežiai Árpa Gerst Ječmień Cevada orz Jačmeň Ječmen Ohra Korn	Твърда пшеница Trigo duro Pšenice tvrdá Hård hvede Hartweizen Kõva nisu Σίτος σκληρός Durum wheat Froment dur Fruento duro Cietie kvieši Kietieji kviečiai Durumbúza Durum tarwe Pszenica durum Trigo duro Grâu dur Pšenica tvrdá Trda pšenica Durumvehnä Durumvete	Царевица Maíz Kukurice Majs Mais Mais Αραβόσιτος Maize Maïs Granturco Kukurūza Kukurūzai Kukorica Mais Kukurydza Milho porumb Kukurica Koruzza Maissi Majs	Copro Sorgo Čirok Sorghum Sorghum Sorgo Σόργο Sorghum Sorgho Sorgo Sorgo Sorgas Cirok Sorgho Sorgo Sorgo sorg Cirok Sirek Durra Sorgum'

2. Before the section 'BELGIQUE', the following section is inserted:

1	2	4	5	6	7
БЪЛГАРИЯ					
Бургаска област					
Айтос	+	–	–	–	–
Бургас	+	+	+	–	–
Карнобат	+	+	–	–	–
Варненска област					
Варна	+	+	–	+	–
Вълчи дол	+	+	–	+	–
Провадия	+	+	–	+	–
Великотърновска и Габровска област					
Велико Търново	+	+	–	+	–
Павликени	+	–	–	–	–
Свищов	+	+	–	+	–
Видинска област					
Дунавци	+	+	–	+	–

1	2	4	5	6	7
Врачанска област					
Бяла Слатина	+	+	—	+	—
Враца	+	+	—	+	—
Мизия	+	+	—	+	—
Добричка област					
Балчик	+	+	+	+	—
Белгун	+	—	—	—	—
Генерал Тошево	+	+	—	+	—
Добрич	+	+		+	—
Каварна	+	—	—	—	—
Карापелит	+	—	—	—	—
Шабла	+	+	—	+	—
Ловешка област					
Ловеч	+	+	—	—	—
Монтана област					
Лом	+	+	—	+	—
Монтана	+	—	—	+	—
Пернишка област, София-град и София област					
Перник	+	—	—	—	—
Плевенска област					
Гулянци	+	—	—	—	—
Левски	+	+	—	+	—
Плевен	+	+	—	+	—
Пловдивска и Смолянска област					
Пловдив	+	—	+	—	—
Разградска област					
Исперих	+	+	—	+	—
Кубрат	+	—	—	—	—
Разград	+	+	—	+	—
Русенска област					
Бяла	+	+	—	+	—
Русе	+	+	—	+	—
Силистренска област					
Алфатар	+	—	—	—	—
Дулово	+	+	—	+	—
Силистра	+	+	—	+	—
Тутракан	+	+	—	+	—
Сливенска област					
Нова Загора	+	+	—	—	—
Сливен	+	+	+	—	—

1	2	4	5	6	7
Старозагорска област					
Гълъбово	+	—	—	—	—
Стара Загора	+	+	+	—	—
Чирпан	+	—	—	—	—
Търговищка област					
Попово	+	+	—	+	—
Търговище	+	+	—	+	—
Хасковска и Кърджалийска област					
Хасково	+	—	+	—	—
Шуменска област					
Каспичан	+	+	—	+	—
Хитрино	+	—	—	—	—
Ямболска област					
Елхово	+	+	—	—	+
Стралджа	+	—	—	—	—
Ямбол	+	+	+	—	—

3. in the 'BELGIQUE/BELGIË' section:

- (a) the 'Ath' centre is deleted.
- (b) After the 'Liege' centre, the 'Seneffe' centre is added for common wheat and for barley,

4. in the 'BUNDESREPUBLIK DEUTSCHLAND' section:

- (a) under 'Brandenburg', 'Gusow' is replaced by 'Gusow-Platkow';
- (b) under 'Sachsen-Anhalt', 'Vahldorf' is replaced by 'Niedere Börde';

5. in the 'FRANCE' section:

- (a) the text corresponding to the department 'Creuse-23' is amended as follows:

- (i) the 'Reterre' centre is deleted,
- (ii) the line corresponding to the 'Maison-Feyne' centre is replaced by the following:

'Maison-Feyne		+		+		—		—		—
---------------	--	---	--	---	--	---	--	---	--	---

- (b) the text corresponding to the department 'Haute-Loire-43' is amended as follows:

- (i) the line corresponding to the 'Brioude' centre is replaced by the following:

'Brioude		+		—		—		—		—
----------	--	---	--	---	--	---	--	---	--	---

- (ii) the 'Le Puy' centre is deleted;

- (c) in the department 'Puy-de-Dôme-63', the line corresponding to the 'Issoire' centre is replaced by the following:

'Issoire		+		—		—		—		—
----------	--	---	--	---	--	---	--	---	--	---

(d) the text corresponding to the department 'Somme-80' is amended as follows:

'Somme — 80					
Abbeville	+	+	—	—	—
Beauquesne	+	+	—	—	—
Languevoisin	+	+	—	+	—
Moislains	+	+	—	+	—
Montdidier	+	+	—	+	—
Poix-de-Picardie	+	+	—	—	—
Saleux	+	+	—	—	—'

6. After the section 'NEDERLAND', the following section is inserted:

1	2	4	5	6	7
ROMÂNIA					
Alba					
Blaj	+	—	—	+	—
Sebeş	+	—	—	+	—
Alba Iulia	+	—	—	—	—
Arad					
Arad	+	+	—	+	+
Pecica	+	+	—	+	—
Chişinău-Criş	+	+	—	+	—
Pâncota	+	+	—	+	—
Argeş					
Miroşi	+	+	—	+	—
Bascov	+	+	—	+	—
Topoloveni	+	+	—	—	—
Bacău					
Săscut	+	—	—	+	—
Bihor					
Oradea	+	+	—	+	—
Salonta	+	+	—	+	—
Marghita	+	+	—	+	—
Săcuieni	+	+	—	+	—
Bistriţa năsăud					
Lechinta	+	—	—	—	—
Botoşani					
săveni	+	—	—	+	—

1	2	4	5	6	7
Brăila					
Făurei	+	—	—	+	—
Însurăței	+	—	—	+	—
Brăila	+	—	—	+	—
Movila miresei	+	—	—	+	—
Brașov					
Codlea	+	—	—	—	—
Buzău					
Pogoanele	+	—	—	+	—
Buzău	+	—	—	+	—
Râmnicu sărat	+	—	—	+	—
Mihăilești	+	—	—	+	—
Caraș-severin					
Grădinari	+	—	—	—	—
Călărași					
Călărași	+	+	—	+	—
fundulea	+	+	—	+	—
Lehliu	+	+	—	+	—
Vlad Țepeș	+	+	—	+	—
Cluj					
Gherla	+	—	—	—	—
Constanța					
Medgidia	+	+	—	+	—
Cobadin	+	+	—	+	—
N. Bălcescu	+	+	—	+	—
Negru vodă	+	+	—	+	—
Casimcea	+	+	—	+	—
Covasna					
Covasna	+	—	—	—	—
Tg. Secuiesc	+	—	—	—	—
Ozun	+	—	—	—	—
Dâmbovița					
Titu	+	—	—	+	—
Găiești	+	—	—	+	—
Răcari	+	—	—	+	—
Târgoviște	+	—	—	+	—

1	2	4	5	6	7
Dolj					
Băilești	+	+	–	+	–
Leu	+	+	–	+	–
Dobrești	+	+	–	+	–
Moșătești	+	+	–	+	–
Filiași	+	+	–	+	–
Portărești	+	+	–	+	–
Galați					
Tecuci	+	–	–	–	–
Independența	+	–	–	+	–
Galați	+	–	–	+	–
Berești	+	–	–	–	–
Matca	+	–	–	+	–
Giurgiu					
Giurgiu	+	+	–	+	–
Mihăilești	+	+	–	+	–
Băneasa	+	+	–	+	–
Izvoarele	+	+	–	+	–
Gorj					
Tg. carbunești	+	–	–	–	–
Harghita					
Sânsimion	+	–	–	–	–
Hunedoara					
Hațeg	+	–	–	–	–
Ialomița					
Tândărei	+	–	–	+	–
Fetești	+	–	+	+	–
Slobozia	+	–	–	+	–
Urziceni	+	–	–	+	–
Fierbinți	+	–	–	+	–
Iași					
Iași	+	–	–	+	–
Ilfov					
Balotești	+	+	–	+	–
Dragomirești Vale	+	+	–	+	–
Maramureș					
Ulmeni	+	–	–	–	–
Mehedinți					
Prunișor	+	+	–	+	–
Vânju mare	+	+	–	+	–

1	2	4	5	6	7
Mureș					
Luduș	+	+	—	—	—
Tg. Mureș	+	+	—	—	—
Neamț					
Roman	+	—	—	—	—
Olt					
Drăgănești olt	+	+	—	+	—
Caracal	+	+	—	+	—
Piatra olt	+	+	—	+	—
Slatina	+	+	—	+	—
Corabia	+	+	—	+	—
Prahova					
Ploiești	+	—	—	—	—
Satu Mare					
Carei	+	+	—	+	—
Satu Mare	+	+	—	+	—
Tășnad	+	+	—	+	—
Sanislau	+	+	—	+	—
Sălaj					
Jibou	+	—	—	—	—
Sibiu					
Agnita	+	—	—	—	—
Suceava					
Fălticeni	+	—	—	—	—
Teleorman					
Videle	+	+	—	+	—
Drăgănești Vlașca	+	+	—	+	—
Alexandria	+	+	—	+	—
Roșiorii de Vede	+	+	—	+	—
Dobrotești	+	+	—	+	—
Turnu Măgurele	+	+	—	+	—
Timiș					
Timișoara	+	+	—	+	—
Lugoj	+	+	—	+	—
Deta	+	+	—	+	—
Sânicolau Mare	+	+	—	+	—
Topolovătu Mare	+	+	—	+	—
Orțișoara	+	+	—	+	—

1	2	4	5	6	7
Tulcea					
Tulcea	+	—	—	+	—
Babadag	+	—	—	+	—
Cataloi	+	—	—	+	—
Baia	+	—	—	+	—
Vaslui					
Bârlad	+	—	—	—	—
Vaslui	+	—	—	—	—
Huși	+	—	—	—	—
Vâlcea					
Drăgășani	+	—	—	—	—
Vrancea					
Focșani	+	—	—	—	—
Gugești	+	—	—	—	—
Pădureni	+	—	—	—	—

7. in the 'ÖSTERREICH' section, the line corresponding to the 'Ennsdorf' centre is replaced by the following:

'Ennsdorf		+		+		—		+		—
-----------	--	---	--	---	--	---	--	---	--	---

8. in the 'ČESKÁ REPUBLIKA' section:

(a) the text corresponding to the 'Středočeský kraj' region is amended as follows:

(i) the 'Lysa n. L.' and 'Beroun' centres are deleted,

(ii) the following text is added:

'Mesice		+		—		—		—		—
Zdice		+		—		—		—		—

(b) the text corresponding to the 'Karlovarský kraj' region is replaced by the following:

'Karlovarský kraj										
Nebanice		+		—		—		—		—

(c) the text corresponding to the 'Jihomoravský kraj' region is amended as follows:

(i) the line corresponding to the 'Hodonice' centre is replaced by the following:

'Hodonice		+		—		—		—		—
-----------	--	---	--	---	--	---	--	---	--	---

(ii) the following text is added:

'Hosteradicee		—		—		—		+		—
---------------	--	---	--	---	--	---	--	---	--	---

(d) in the 'Moravskoslezský kraj' region, the 'Mesto Albrechtice' centre is added for common wheat;

9. in the 'LIETUVA' section:

(a) the line corresponding to the 'Alytus' centre is replaced by the following:

'Alytus		+		+		-		-		-'
---------	--	---	--	---	--	---	--	---	--	----

(b) the line corresponding to the 'Marijampole' centre is replaced by the following:

'Marijampole		+		+		-		-		-'
--------------	--	---	--	---	--	---	--	---	--	----

(c) the following text is added:

'Pakruojis		+		+		-		-		-'
------------	--	---	--	---	--	---	--	---	--	----

10. in the 'MAGYARORSZÁG' section:

(a) the line corresponding to the 'Kaposvar' centre is replaced by the following:

'Kaposvar		+		+		-		+		+'
-----------	--	---	--	---	--	---	--	---	--	----

(b) the line corresponding to the 'Encs' centre is replaced by the following:

'Encs		+		+		-		+		-'
-------	--	---	--	---	--	---	--	---	--	----

11. in the 'SLOVENSKO' section, the following text is added in the 'Košický kraj' region:

'Dobra		-		+		-		-		-'
--------	--	---	--	---	--	---	--	---	--	----

COMMISSION REGULATION (EC) No 2005/2006**of 22 December 2006****imposing provisional anti-dumping duties on imports of synthetic staple fibres of polyesters (PSF) originating in Malaysia and Taiwan**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ ('basic Regulation'), as last amended by Regulation (EC) No 2117/2005 ⁽²⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE**1. Initiation**

- (1) On 12 April 2006, the Commission announced by a notice ('notice of initiation') published in the *Official Journal of the European Union* ⁽³⁾, the initiation of an anti-dumping proceeding with regard to imports into the Community of synthetic staple fibres of polyesters ('PSF') originating in Malaysia and Taiwan.
- (2) The anti-dumping proceeding was initiated following a complaint lodged on 3 March 2006 by the Comité International de la Rayonne et des Fibres Synthétiques ('CIRFS' or 'the complainant') on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of PSF. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

2. Measures in force

- (3) In March 2005, by Regulation (EC) No 428/2005 ⁽⁴⁾, the Council imposed definitive anti-dumping duties on imports of PSF originating in the People's Republic of China, and Saudi Arabia and amended the existing anti-dumping duties on PSF originating in the Republic of Korea. Also, definitive anti-dumping measures are in force on imports of PSF from Belarus ⁽⁵⁾.

3. Parties concerned by the proceeding

- (4) The Commission officially advised the exporting producers in Malaysia and in Taiwan, importers/traders and their associations, suppliers and users known to be concerned, the representatives of the exporting countries concerned as well as the complainant and all known Community producers of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation. The parties who so requested were granted the opportunity to be heard.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 340, 23.12.2005, p. 17.

⁽³⁾ OJ C 89, 12.4.2006, p. 2.

⁽⁴⁾ OJ L 71, 17.3.2005, p. 1.

⁽⁵⁾ OJ L 274, 11.10.2002, p. 1.

- (5) In view of the apparent large number of Taiwanese exporting producers listed in the complaint, and the large number of Community producers and importers of PSF, sampling was envisaged in the notice of initiation for the determination of dumping and injury, in accordance with Article 17 of the basic Regulation.
- (6) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers from Taiwan, Community producers and importers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to PSF during the period 1 January 2005 to 31 December 2005. ('investigation period' (IP)).
- (7) In the case of Taiwan, nine companies replied to the sampling questions. Eight out of nine reported export sales to the Community during the IP. Four companies representing more than 80.0 % of the reported export quantities to the Community, during the IP, were included in the sample. The sample selected was based on the largest representative volume of exports which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, the Taiwanese authorities were consulted and raised no objection. The sample consists of the following companies:
- Far Eastern Textile Ltd.
 - Nan Ya Plastics Corporation
 - Tung Ho Spinning Weaving & Dyeing Co., Ltd.
 - Tuntex Distinct Corporation and its related company Tuntex Synthetic Corporation.
- (8) As far as importers into the European Community are concerned, only three unrelated importers made themselves known and provided the requested information in due time. It was therefore not necessary to use the sampling methodology. Questionnaires have been sent to these three unrelated importers but two of them were subsequently considered as non-cooperating given that they refrained to fill in the full questionnaire sent to them.
- (9) As far as Community industry producers are concerned, only three of them made themselves known, provided the requested information in due time and were ready to reply to the questionnaire. It was therefore not necessary to use the sampling methodology.
- (10) The Commission sent questionnaires to all parties known to be concerned and/or to all the other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from two Malaysian exporting producers, from four Taiwanese exporting producers included in the sample, from one company related to a Taiwanese exporting producer, as well as from three Community producers, one unrelated importer, one supplier of raw material and from seven users.
- (11) The Commission and verified all the information it deemed necessary for the purpose of a provisional determination of dumping, resulting injury and Community interest. Verification visits were carried out at the premises of the following companies:
- (a) Community producers
- Advansa GmbH, Hamm, Germany
 - Wellman International Ltd., Kells, Ireland
 - La Seda de Barcelona, Barcelona, Spain

(b) Unrelated importer

— SIMP SPA, Verrone, Italy

(c) Users

— Tharreau Industries, Chemillé, France

— Libeltex, Meulebeke, Belgium

(d) Exporting producers in Malaysia

— Hualon Corporation (M) Sdn. Bhd., Kuala Lumpur

— Penfibre Sdn. Bhd., Penang

(e) Exporting producers in Taiwan

— Far Eastern Textile Ltd., Taipei

— Nan Ya Plastics Corporation, Taipei

— Tung Ho Spinning Weaving & Dyeing Co., Ltd., Taipei

— Tuntex Distinct Corporation, Hsichih, Taipei County, and its related company Tuntex Synthetic Corporation, Hsichih, Taipei County

4. Investigation period

- (12) The investigation of dumping and injury covered the period from 1 January 2005 to 31 December 2005 ('period' or 'IP'). The examination of trends in the context of the injury analysis covered the period from 1 January 2002 to the end of the IP ('period considered' or Injury Investigation Period 'IIP').

B. PRODUCT CONCERNED AND LIKE PRODUCT

5. Product concerned

- (13) The product concerned is synthetic staple fibres of polyester, not carded, combed or otherwise processed for spinning and is currently classifiable within CN code 5503 20 00. It is commonly referred to as polyester staple fibres.
- (14) The product is a basic material used at various stages of the manufacturing process of textile products. The Community consumption of PSF is either used for spinning, i.e. manufacturing filaments for the production of textiles, mixed with other fibres such as cotton and wool or for non-woven applications such as filling, i.e. stuffing or padding of certain textile goods such as cushions, car seats and jackets.
- (15) The product is sold in different product types which can be identified through different specifications such as weight, tenacity, lustre and silicon treatment or through their classification into product families such as round, hollow, bi-component fibres and specialities such as coloured and tri-lobal fibres. From a production point of view, a distinction can be made between virgin PSF, produced from virgin raw materials, and regenerated PSF, produced from recycled polyester. Finally, quality may be substandard or first grade.
- (16) The investigation has shown that all types of the product concerned as defined in recital 13, despite differences in a variety of factors as defined in the preceding recital, have the same basic physical and chemical characteristics and are used for the same purposes. Therefore, and for the purpose of the present anti-dumping proceeding, all types of the product concerned are regarded as one product.

6. Like product

- (17) The product concerned, and the PSF produced and sold in the Community by the Community industry and the PSF produced and sold on the domestic market of both exporting countries were found to have essentially the same physical and chemical characteristics and the same uses. They are therefore provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

7. General methodology

- (18) Below, the general methodology is described. The subsequent presentation of the findings on dumping for the countries concerned therefore only describes issues specific to each exporting country.

7.1 Normal value

- (19) In accordance with Article 2(2) of the basic Regulation, it was first examined for each co-operating exporting producer whether its domestic sales of PSF were representative, i.e. whether the total volume of such sales represented at least 5 % of the total export sales volume of the producer to the Community.
- (20) The Commission subsequently identified those types of PSF sold domestically that were identical or directly comparable with the types sold for export to the Community. With regard to the examination on a product type basis, and as indicated in recital 17, the Commission considered domestically sold and exported product types, which had similar origin, denier, composition, cross-section, lustre, colour, silicon treatment, quality and use, as being directly comparable.
- (21) For each type sold by the exporting producers on their domestic markets and found to be directly comparable with the type of PSF sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type of PSF were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type of PSF exported to the Community.
- (22) The Commission subsequently examined whether the domestic sales of each type of PSF, sold domestically in representative quantities could be regarded as having been made in the ordinary course of trade in accordance with Article 2(4) of the basic Regulation, by establishing the proportion of profitable sales to independent customers of the PSF type in question.
- (23) In cases where the sales volume of the PSF type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not.
- (24) Where the volume of profitable sales of the PSF type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type.

- (25) Where the volume of profitable sales of any product type represented less than 10 % of the total sales volume of that type, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.
- (26) Wherever domestic prices of a particular product type sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. In such cases, and in accordance with Article 2(3) of the basic Regulation, normal value was constructed on the basis of each exporting producer's own cost of manufacturing plus a reasonable amount for selling, general and administrative ('SG&A') expenses and a reasonable margin for profit.
- (27) Therefore, the Commission examined whether the SG&A incurred and the profit realised by each of the exporting producers concerned on the domestic market constituted reliable data.
- (28) Actual domestic SG&A expenses were considered reliable where the domestic sales volume of the company concerned could be regarded as representative as defined in Article 2(2) of the basic Regulation. The domestic profit margin was determined on the basis of domestic sales made in the ordinary course of trade.
- (29) In all cases where these conditions were not met, the Commission examined whether data of other exporters or producers in the domestic market of the country of origin could be used in accordance with Article 2(6)(a) of the basic Regulation. Where reliable data were only available for one exporting producer, no average as set out in Article 2(6)(a) of the basic Regulation could be established and it was examined whether the conditions of Article 2(6)(b) were fulfilled, i.e. the use of data with regard to the production and sales of the same general category of products for the exporter or producer in question. Where such data regarding SG&A and profit were not available or were not provided by the exporting producer, SG&A and profit were established in accordance with Article 2(6)(c) of the basic Regulation, i.e. on the basis of any other reasonable method.

7.2. Export price

- (30) As all exports were made to independent customers in the Community, the export prices were established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

7.3. Comparison

- (31) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments were granted in all cases where applicable, accurate and supported by verified evidence.

7.4. Dumping margins

- (32) According to Article 2(11) and (12) of the basic Regulation the dumping margins for each exporting producer were established on the basis of a comparison between the weighted average normal value by product type with the weighted average export price by product type as established above.
- (33) It is the consistent practise of the Commission to consider related exporting producers or producers belonging to the same group as one single entity for the determination of a dumping margin and thus to establish one single dumping margin for them. This is in particular because calculating individual dumping margins might encourage circumvention of anti-dumping measures, thus rendering them ineffective, by enabling related exporting producers to channel their exports to the Community through the company with the lowest individual dumping margin.

- (34) In accordance with this practise, the related exporting producers belonging to the same groups were regarded as one single entity and attributed one single dumping margin which was calculated on the basis of the weighted average of the dumping margins of the cooperating producers in the respective group.
- (35) The dumping margin for cooperating exporting producers, which made themselves known in accordance with Article 17 of the basic Regulation, but were not part of the sample, has been established on the basis of the weighted average of the dumping margins of the companies selected in the sample, pursuant to Article 9(6) of the basic Regulation.
- (36) For those exporting producers which did not cooperate, the dumping margin was established on the basis of facts available in accordance with Article 18 of the basic Regulation. To this end, the level of non-cooperation was first established by comparing the volume of exports to the Community reported by the cooperating exporting producers with the equivalent Eurostat import statistics during the investigation period.
- (37) As the level of cooperation was low for both exporting countries, i.e. exports by cooperating exporting producers of each exporting country represented less than 80 % of the import volume from that country, the residual dumping margin was determined on the basis of the average of the highest dumped transactions, in representative quantities, of the cooperating exporting producers. This approach was also considered necessary in order to avoid giving a bonus for non-cooperation and in view of the fact that there were no indications that a non-cooperating party had dumped at a lower level.

7.5. Malaysia

- (38) Questionnaire replies were received from two exporting producers.

7.5.1. Normal value

- (39) One of the co-operating exporting producers did not have sufficient representative sales of the like product in its domestic market.
- (40) Therefore, normal value was constructed as described in recital 26 above.
- (41) The investigation revealed that the company's reported cost of manufacturing was underestimated as factory overheads costs (including depreciation, rent expenses, salaries and maintenance) actually incurred during the IP were reclassified to SG&A expenses. The company argued that this practice was made in order to reflect the low capacity utilization rate of its production facilities. However, actual costs incurred do include also the reclassified factory overhead costs. The fact that the company operated at a fraction of its full capacity of production does not mean that costs arising from such facilities are not incurred. Indeed, such costs were booked in the company's accounting records and since they were directly linked to production of the like product, a correction of the reported cost of manufacturing had to be done.
- (42) In the absence of domestic sales of the like product and data on the same general category of products, during the investigation period, SG&A expenses were determined in accordance with Article 2(6)(c) of the basic Regulation. In particular, SG&A expenses were based on total sales of all products on the domestic market. Such expenses were added to the company's own average cost of manufacturing, of each exported type, during the investigation period.
- (43) With regard to profit, and in the absence of any other reasonable basis, a profit margin of 5 % was used. No information was available which would indicate that such profit margin exceeds the profit normally realized by other exporters or producers on sales of products of the same general category in the domestic market of Malaysia, as required by Article 2(6)(c) of the basic Regulation.

- (44) A second co-operating exporting producer had representative domestic sales of the like product in its domestic market. However, sales in the ordinary course of trade were not made in sufficient quantities for normal value to be based on actual domestic prices. Therefore, normal value had to be constructed. In accordance with Article 2(6) of the basic Regulation, SG&A expenses were based on the company's actual data pertaining to production and sales, of the like product. For profit, in line with the other exporting producer, a 5 % margin was used.

7.5.2. Export price

- (45) Both exporting producers sold directly to independent customers in the Community. Therefore, export prices were established on the basis of the prices actually paid or payable in the Community in accordance with Article 2(8) of the basic Regulation.

7.5.3. Comparison

- (46) To ensure a fair comparison, allowances were made for differences in transport, insurance, handling, loading and ancillary costs, credit costs and commissions where applicable and justified.

7.5.4. Dumping margins

- (47) The provisional dumping margins established, expressed as a percentage of the CIF import price at the Community frontier duty unpaid are the following:

— Hualon Corporation (M) Sdn. Bhd., Kuala Lumpur 12,4 %

— Penfibre Sdn. Bhd., Penang 14,7 %

— All other companies 23,0 %

7.6. Taiwan

- (48) Questionnaire replies were received from the four exporting producers selected in the sample, as well as from one related company in the exporting country.

- (49) One Taiwanese producer replied to the sampling form and requested that an individual duty be established. However, this company had no exports of PSF to the Community during the IP and thus could not be considered as an exporting producer. Consequently, no individual dumping margin could be established for this company and it has to be subject to the provisional residual duty established for all other Taiwanese producers. The company was informed of this approach and did not react.

7.6.1. Non-cooperation

- (50) The investigation revealed that two exporting producers selected in the sample provided false and misleading information to the Commission.

- (51) One exporting producer reported domestic sales quantities and sales values which did not correspond to the actual quantities and values shipped to domestic customers of the like product. Indeed, for many transactions it was found that the reported quantities were higher and values were lower than those ordered by the domestic customers, as reflected in the company's register in the shipping department. It thus had to be concluded that the quantities actually sold were those as ordered by the domestic customer and booked in the shipping register, rather than those reported and contained in the invoices shown to the Commission.

- (52) Moreover, with regard to the sales values reported, it was also found that the company added fictitious transactions to pretend that the total amount of all invoices under one order matched the total amount of that order. These additional transactions had to be fictitious since they were not reported in the company's actual shipping register.
- (53) It should be noted that for the reported domestic transactions, showing falsified quantities and values and including the fictitious transactions, the company has provided delivery notes and invoices claiming that these were the genuine underlying documents. Given the fact that the reported data was found to be faked it has to be concluded that also the underlying documents were forged in order to be brought in line with the reported falsified information.
- (54) By thereby manipulating the domestic unit prices and quantities, the company provided false and misleading information to the Commission.
- (55) The other exporting producer was also found to have reported false and misleading information with regard to its domestic sales. In particular, the company reported certain product types of domestic transaction that were not the same as the one contained in the customer order and registered in the order book kept by the company's sales department. This was done for the most widely exported types of PSF, therefore misleading the Commission into using domestic prices although the sales concerned were not representative in the sense of Article 2(2) of the basic Regulation, given their low volumes.
- (56) Moreover, in order to justify a difference found for one specific transaction which would show that the product type delivered did correspond to the one reported to the Commission, the company provided a falsified document, which was a copy of a signed delivery note which had allegedly been faxed by a customer, at the company's request. This document did not correspond to the original which had previously been provided by the company. Indeed, the product types were not the same which indicates that the alleged supporting evidence was fabricated for the purpose of misleading the Commission.
- (57) In addition, the investigation revealed that it is common practice for companies in Taiwan to keep the delivery notes signed by the customer, as a proof that the quantities ordered were actually delivered. This was confirmed by the exporting producer in question and by the other exporting producers visited. However, even though the Commission specifically requested those delivery notes for the IP, no such documents were made available during the verification visit. The company thus did not only refuse to provide necessary documents, but also significantly impeded the investigation.
- (58) Given the fact that both companies were able to provide forged delivery notes and invoices to justify domestic transactions, and that such documents are part of an integrated system, it has to be concluded that any document which ties to such system can be manipulated and is therefore unreliable. Furthermore, the nature and extent of the false and misleading information also casts doubt on the integrity of all the data submitted by the companies. Therefore, it has been decided to entirely disregard the information provided by these companies, in line with Article 18 of the basic Regulation.
- (59) The companies were informed forthwith of the basis on which it was intended to disregard the information provided and were given the opportunity to provide further explanations, in accordance with Article 18(4) of the basic Regulation. However, the explanations given by the companies were unsatisfactory and could not refute the evidence showing that they had submitted falsified and misleading information.
- (60) The dumping margins were therefore provisionally determined on the basis of facts available, in accordance with Article 18 of the basic Regulation.

7.6.2. Normal value

- (61) For two co-operating producers, domestic sales of the like product were representative.
- (62) One exporting producer sold in the domestic market to both related and unrelated customers. Sales to the related customer were resold to independent customers. Given the fact that these two related companies shared functions with regard to production and sales it was considered appropriate to consider them as one single economic entity. Therefore, wherever possible, normal value was established on the basis of the price paid or payable, in the ordinary course of trade, by the first independent customer.
- (63) For most product types sold by those cooperating producers there were no sufficient domestic sales made in the ordinary course of trade and normal value had to be constructed in accordance with Article 2(3) of the basic Regulation. In this case, SG&A and profit were based on actual data pertaining to production and sales, in the ordinary course of trade, of the like product by the exporting producer under investigation, in accordance with the chapeau of Article 2(6) of the basic Regulation.

7.6.3. Export price

- (64) For the two co-operating exporting producers export prices were established on the basis of the prices actually paid or payable by unrelated customers in the Community in accordance with Article 2(8) of the basic Regulation.

7.6.4. Comparison

- (65) To ensure a fair comparison, allowances were made for differences in transport, insurance, handling, loading and ancillary costs, credit cost, technical assistance costs and commissions where applicable and justified.

7.6.5. Dumping margins

- (66) For cooperating companies not included in the sample, the dumping margin was established on the basis of a weighted average of the dumping margins calculated for the companies selected in the sample, representing more than 12,0 % of Taiwanese exports to the Community. For this purpose, the dumping margins established for the non-cooperating exporting producers, which were based on the facts available according to Article 18 of the basic Regulation, were not included in the average, as stipulated by Article 9(6) of the basic Regulation.
- (67) The provisional dumping margins established, expressed as a percentage of the CIF import price at the Community frontier duty unpaid are the following:
- Far Eastern Textile Ltd., Taipei 29,5 %
 - Nan Ya Plastics Corporation, Taipei 29,5 %
 - Tung Ho Spinning Weaving & Dyeing Co., Ltd., Taipei 14,7 %
 - Tuntex Distinct Corporation, Hsichih, Taipei County 18,2 %
 - Tuntex Synthetic Corporation, Hsichih, Taipei County 18,2 %
 - Cooperating companies not included in the sample 16,5 %
 - All other companies 29,5 %

D. INJURY**1. Community production**

- (68) During the IP, PSF was manufactured by 18 companies in the Community:
- eight complainant Community producers, out of which three fully co-operated with the Commission during the investigation,
 - six producers, which fully supported the complaint but did not co-operate in the proceeding,
 - four producers which remained silent at the complaint stage and did not co-operate in the proceeding.
- (69) On the above basis, it was considered that the PSF produced by all the above mentioned companies constitute the total Community production within the meaning of Article 4(1) of the basic Regulation.

2. Community industry

- (70) As explained in recital 9 above, three Community producers made themselves known, provided the information requested in the notice of initiation in due time and were ready to reply to the questionnaire. Questionnaires have therefore been sent to these three Community producers who supported the complaint and fully co-operated in the investigations. These producers account for more than 25 % of Community production of the product concerned and are therefore deemed to constitute the Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation.

3. Community consumption

- (71) Community consumption was established on the basis of the volume of imports of the product concerned from the countries concerned based on reported data and complemented by Eurostat data and from all other third countries known to produce and export the product concerned to the Community based on Eurostat, plus the volume of sales in the Community market of both the Community industry and other Community producers. For these latter, data reported in mini questionnaires that were sent as explained in recital 143 and regarding those Community producers which did not cooperate at all, data contained in the complaint was used.
- (72) On this basis, the Community consumption slightly increased over the period considered, i.e. by 3 % between 2002 and the IP. It first decreased by 5 % between 2002 and 2003 and then rose by more than 8 % to reach 834 093 tonnes during the IP.

Table 1

Consumption in the EU (volume)

	2002	2003	2004	IP = 2005
Consumption (tonnes)	810 226	771 298	825 969	834 093
<i>Index</i>	100	95	102	103

4. Cumulative assessment of the effects of the imports concerned

- (73) It was first examined whether imports from Taiwan and Malaysia should be assessed cumulatively, in accordance with Article 3(4) of the basic Regulation.

(74) It was found that:

- the dumping margins established in relation to the imports from each of the countries concerned were above the *de minimis* threshold as defined in Article 9(3) of the basic Regulation,
- the volumes of imports from each of these countries were not negligible in the sense of Article 5(7) of the basic Regulation, as market shares for these countries ranged from 2 % to 13 % during the investigation period and,
- the cumulative assessment was found to be appropriate in view of the conditions of competition both between imports originating in these countries, and between these imports and the like Community product. To this end, the market behaviour of the exporters was analysed in terms of trends of export prices and volumes. It was found that the level of undercutting, ranging from 43 % to 50 % is relatively similar, and that the sales prices of both countries follow the same trends as the like product produced and sold by the Community industry. It was also found that exporters from the countries concerned use similar sales channels as the Community industry, namely directly to independent customers. Moreover, the investigation has shown that the imports concerned and the like product share the same physical and chemical characteristics, and are thus competing against each other on a type by type basis.
- As illustrated in the table below the volume of imports both from Taiwan and Malaysia showed a significant increase in particular between 2004 and the end of the IP.

(75) For these reasons, it is provisionally concluded that all the criteria set out in Article 3(4) of the basic Regulation are met and that imports originating in Taiwan and Malaysia should be assessed cumulatively.

5. Imports from the countries concerned

5.1. Volume and market share of the imports concerned

(76) The volume of imports from the countries doubled between 2002 and the IP. While these imports amounted to 62 574 tonnes in 2002 they reached a level of 127 890 tonnes during the IP. They first decreased by 5 % between 2002 and 2003 and then rose by 115 % until the end of the IP. The increase of imports was particularly marked between 2004 and the IP since they rose by 76 %.

Table 2
Imports from the countries concerned

Imports (tonnes)	2002	2003	2004	IP
Taiwan	58 679	54 869	66 915	111 390
<i>Index</i>	100	94	114	190
Malaysia	3 894	4 494	5 825	16 500
<i>Index</i>	100	115	150	424
Total countries concerned	62 574	59 363	72 740	127 890
<i>Index</i>	100	95	116	204

(77) The market share held by the countries concerned almost doubled between 2002 and the IP: from 8 % to 15 % i.e. plus 7 percentage points. The increase was particularly marked between 2004 and the IP when it went up by 73,8 %.

Table 3

Market share of the countries concerned

Market shares	2002	2003	2004	IP
Taiwan	7,2 %	7,1 %	8,1 %	13,4 %
Malaysia	0,5 %	0,6 %	0,7 %	2,0 %
Total countries concerned	7,7 %	7,7 %	8,8 %	15,3 %

5.2. Prices

- (78) From 2002 to the IP, prices of the imports from the countries concerned increased by 9 %. They first decreased by 7 % between 2002 and 2003 and then rose by 16 % between 2003 and the IP when they reached 1 156 Euros per metric tonne.
- (79) This increase should be seen in the light of the raw material price which as explained in recitals 124 to 129 increased by more than 30 % between 2002 and the IP at worldwide level.

Table 4

Prices of the imports concerned

Unit prices (Euro / tonne)	2002	2003	2004	IP
Taiwan	1 078	1 000	1 055	1 171
<i>Index</i>	100	93	98	109
Malaysia	846	872	989	1 051
<i>Index</i>	100	103	117	124
Total countries concerned	1 063	990	1 050	1 156
<i>Index</i>	100	93	99	109

5.3. Price undercutting

- (80) For the determination of price undercutting the price data referring to the IP was analysed. The relevant sales prices of the Community industry were net prices after deduction of discounts and rebates. Where necessary, these prices were adjusted to an ex-works level, i.e. excluding freight cost in the Community. The import prices of the countries concerned were also net of discounts and rebates and were adjusted where necessary to CIF Community frontier.
- (81) The Community industry's sales prices and the import prices of the countries concerned were compared at the same level of trade, namely to independent customers within the Community market.
- (82) During the IP, weighted average price undercutting margins, expressed as a percentage of the Community industry's sales prices, ranged from 48 % to 50 % for the Taiwanese exporters and from 43 % to 47 % for the Malaysian exporters. The weighted average price undercutting margin was 49 % for Taiwan and 45 % for Malaysia.

6. Situation of the Community industry

- (83) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all economic factors and indices having a bearing on the state of the Community industry during the period considered.

6.1. *Production, capacity and capacity utilisation*

Table 5

Production, capacity and capacity utilisation

	2002	2003	2004	IP
Production (tonnes)	145 279	142 463	139 395	130 998
<i>Index</i>	100	98	96	90
Production capacity (tonnes)	172 334	172 734	174 134	156 734
<i>Index</i>	100	100	101	91
Capacity utilisation	84 %	82 %	80 %	84 %
<i>Index</i>	100	98	95	99

- (84) As shown in the table above, the production of the Community industry decreased by 10 % between 2002 to the IP. The decrease was particularly sharp between 2004 and the IP when it lost 6 % of production volume or around 8 400 tonnes.
- (85) The production capacity remained relatively stable between 2002 and 2004 and then decreased by 10 % between 2004 and the IP. This is due to the fact that one of the Community industry producers reorganised its production and temporarily decided to use part of its equipment for the production of more profitable products.
- (86) In the light of the evolution of the production and the capacity, the capacity utilisation decreased by 2 percentage points per annum between 2002 and 2004 and then increased by 4 percentage points to reach in the IP the same level as in 2002.

6.2. *Sales volume, market shares, growth and average unit prices in the EC*

- (87) The table below shows the Community industry's performances in relation to its sales to independent customers in the Community.

Table 6

Sales volume, market share, prices

	2002	2003	2004	IP
Sales volume (tonnes)	136 030	131 354	135 838	121 057
<i>Index</i>	100	97	100	89
Market Share	16,8 %	17,0 %	16,4 %	14,5 %
<i>Index</i>	100	102	98	86
Unit prices (Euro/tonne)	1 271	1 228	1 295	1 417
<i>Index</i>	100	97	102	112

- (88) The Community industry's sales volumes have decreased by 11 % between 2002 and the IP. Although the decrease between 2002 and 2003 has been nearly offset by the increase between 2003 and 2004 the investigation showed that the main decrease occurred between 2004 and the IP when 11 % of sale volume was lost.

- (89) Overall, the market share of the Community industry decreased from 16,8 % to 14,5 % between 2002 and the IP. This market share slightly increased between 2002 and 2003 and subsequently continuously decreased until the IP. The decrease was particularly pronounced between 2004 and the IP where 2 percentage points were lost. Both the decrease in sales volume and market shares should be seen in the light of the evolution of the Community consumption which rose by 3 % during the period considered.
- (90) The Community industry unit prices first decreased by 3 % between 2002 and 2003 and then rose until the IP to reach 1 417 Euro per tonne, i.e. an increase of 12 % between 2002 and the IP. As already mentioned in recital 79, this should also be seen in the light of the raw material price evolution (i.e. increase by more than 30 % during the same period).

6.3. Stocks

- (91) The figures below represent the volume of stocks at the end of each period.

Table 7

Stocks

	2002	2003	2004	IP
Stocks (in mt)	12 997	14 940	10 517	12 760
Index	100	115	81	98

- (92) The investigation revealed that stocks cannot be considered as a meaningful injury factor, since it is not produced for stock, and therefore the trends in stocks are given for information. The level of stocks remained rather stable overall. It increased by 15 % between 2002 and 2003, then decreased by 29 % until the end of 2004 and then rose again by 21 % to reach almost the same level as in 2002.

6.4. Investments and ability to raise capital

Table 8

Investments

	2002	2003	2004	IP
Investments (in '000 Euros)	3 772 874	7 143 402	5 042 707	9 657 326
Index	100	189	134	256

- (93) Although investment significantly increased between 2002 and the IP it is considered that the level and nature of the investments (mainly replacements of machinery and maintenance) is low for a capital intensive industry such as the PSF industry.
- (94) The investigation showed that the financial performances of the Community industry deteriorated but it did not reveal that its ability to raise capital was seriously affected yet during the period considered.

6.5. Profitability, return on investment and cash flow

Table 9

Profitability, return on investment and cash flow

	2002	2003	2004	IP
Profitability on EC sales	0,4 %	– 5,6 %	– 0,8 %	– 4,9 %
<i>Index</i>	100	– 1 311	– 181	– 1 137
Return on total assets	– 0,8 %	– 8,9 %	2,1 %	– 7,8 %
<i>Index</i>	– 100	– 1 094	265	– 966
Cash Flow (in '000 Euro)	11 299	3 810	8 692	– 4 393
<i>Index</i>	100	34	77	– 39

- (95) The profitability achieved by the Community industry significantly decreased between 2002 and 2003 since it declined by 6 percentage points. Breakeven point could almost be reached in 2004 but a further decline of the financial results between 2004 and the IP led to losses amounting to 4,9 % of the turnover. As a consequence, the financial results of the Community industry were negative for most of the IIP.
- (96) It should also be noted that during the same period, the cost of production increased by 17 % in the Community. As regard the raw material, the increase was as high as 30 % at worldwide level. Both the return on total assets and the cash flow show the same trends as the profitability, namely deterioration from 2002 to 2003, followed by an improvement between 2003 and 2004 and a further sharp decline between 2004 and the IP.
- (97) The evolution of the financial results of the Community industry should be seen in the light of the decision taken by one of the Community industry producers to reorganise its production already mentioned under recital 85 above. This reorganisation has had a negative effect on the financial results of this specific producer who used the most efficient production process for the production of more profitable products to the detriment of PSF. For this reason, the cost of production of this Community producer has not been taken into account in the calculation of the injury elimination level described in recital 172 below.
- (98) However it is worth noting that the said producer is rather small compared to the other producers included in the definition of the Community industry, the injury analysis and the trends thereof are not affected.

6.6. Employment, Productivity and Wages

Table 10

Employment, Productivity and Wages

	2002	2003	2004	IP
Number of employees	813	796	701	659
<i>Index</i>	100	98	86	81
Employment cost (in '000 Euros)	37 452	37 223	36 663	39 666
<i>Index</i>	100	99	98	106
Productivity (tonne/employee)	178,7	179,0	198,9	198,8
<i>Index</i>	100	100	111	111

- (99) The number of personnel employed by the Community industry continuously decreased from 813 employed in 2002 to 659 persons during the IP i.e. a decrease of 19 %. This decrease was however sharper than the decrease in production and thus led to an improvement of the productivity which gained 11 % in the same period.
- (100) It should be noted that because of the social cost inherent to the reduction of the workforce the cost linked to the personnel could not be reduced during the period considered.

6.7. *Magnitude of the dumping margin*

- (101) The dumping margins specified in the dumping part are clearly above *de minimis*, as defined in Article 9(3) of the basic Regulation. Furthermore, given the volume and the price of the dumped imports, the impact of the actual margins of dumping cannot be considered negligible.

6.8. *Recovery from past dumping*

- (102) Despite the fact that anti-dumping measures were imposed on imports of PSF originating in the People's Republic of China, and Saudi Arabia in March 2005 (i.e. during the IP), the injury data collected during the IP do not point towards a recovery from the effects of past dumping.

6.9. *Growth*

- (103) The investigation showed that despite an increase in consumption by 3 % or by around 24 000 tonnes, the Community industry lost sales volume (– 13 000 tonnes) and market share (– 1,9 percentage points) during the period considered.

7. **Conclusion on injury**

- (104) During the period considered, the volume of dumped imported PSF doubled and its share of the market increased by 7 percentage points to reach 15,3 % of the Community market in the IP. Following a worldwide increase in raw material prices, the price of the dumped import from the countries concerned were increased between 2004 and the IP. However, the increase was not such as to compensate for the raw material cost increase and these prices were consistently and significantly lower than those of the Community industry during the period considered.
- (105) The investigation showed that some injury indicators pertaining to the Community industry remained stable or experienced positive developments during the IIP, as for example the capacity utilisation, investments and productivity.
- (106) However, a general deterioration in the economic situation of the Community industry has been apparent as from 2002 up to the IP: production, production capacity, market share, sales volume and the employment decreased. The decrease of sales volume also implied that the Community industry could not benefit from the increase of demand in its core market. The investigation also showed a sharp deterioration in the financial situation of the Community industry: losses were incurred for most of the IIP and the return on investments and the cash-flow from operating activities followed the same negative trend.
- (107) In spite of a 12 % increase between 2002 and the IP, the sales prices of the Community industry could not reflect the 30 % increase in raw material prices which occurred at the same time. Moreover, it was found that the prices of the imports from the countries concerned were undercutting those of the Community industry by more than 40 % during the IP.

- (108) In view of the losses in market share, sales volume, and the negative financial results achieved by the Community industry in particular during the IP it is provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation.

E. CAUSATION

- (109) In accordance with Article 3(6) of the basic Regulation, it was examined whether the material injury suffered by the Community industry had been caused by the dumped imports from the countries concerned. In accordance with Article 3(7) of the basic Regulation, the Commission also examined other factors which might have injured the Community industry in order to ensure that any injury caused by those factors was not wrongly attributed to the dumped imports.

1. Effect of dumped imports

- (110) It is recalled that the volume of dumped imports originating in the countries concerned increased dramatically during the period considered. As can be seen in the table 2. under recital 76, the imports concerned had doubled between 2002 and the IP, i.e. an increase from 62 Ktonnes in 2002 to around 127 Ktonnes in the IP. During the same period of time, their market share significantly increased by 7 percentage points i.e. from 8 % to over 15 %.
- (111) The most important increase in dumped import volume took place between 2004 and the IP when these imports increased by 75 % and gained 6,5 percentage points in market share. The surge in dumped imports coincided with the deterioration of the economic situation of the Community industry. Indeed, the investigation showed that most of the injury indicators pertaining to the Community industry, in particular, production, production capacity, sales volume, market share and profitability, deteriorated sharply between 2004 and the IP, namely at the time when the volumes of dumped imports increased most significantly.
- (112) This is particularly true for the production which decreased by 6 %, the sales volume which decreased by 11 %, the market share which declined by 1,9 percentage points and profitability which declined by 5,7 percentage points between 2004 and the IP. Moreover, this occurred at a time where dumped imports were significantly undercutting Community industry prices by over 40 %. The effect of this unfair pricing behaviour was that the Community industry's prices were suppressed and could not even cover the increase in raw material prices. This was further confirmed by the significant losses incurred by the Community industry during the IP.
- (113) Based on the above facts and considerations, it is evident that the surge in low-priced dumped imports from the countries concerned coincided with the injurious situation of the Community industry. The negative impact of the dumped imports was particularly pronounced from 2004 up to the IP and had a determining role in the deterioration of the economic situation of the Community industry.

2. Effect of other factors

2.1. Development of consumption

- (114) Between 2002 and the IP, the Community consumption increased by more than 3 %. The development of consumption thus has not contributed to the injury suffered by the Community industry. To the contrary, under normal market conditions, the Community industry could have expected an increase in its sales volumes.

2.2. Imports from other third countries

- (115) The imports from third countries not concerned by this investigation showed the following development during the period considered:

2.3. Imports from other countries subject to anti-dumping duties

Table 11

Imports from other countries subject to anti-dumping duties

Import volume in tonnes	2002	2003	2004	IP
Australia	145	2	13	0
Belarus	0	75	171	73
China	24 722	33 194	45 313	36 530
India	474	258	510	336
Indonesia	1 423	285	493	234
South Korea	97 980	87 525	108 572	106 222
Saudi Arabia	16 859	21 816	27 096	6 383
Thailand	472	10	41	2
Total	142 075	143 164	182 209	149 779

Source: Eurostat

Table 12

Market share of other countries subject to anti-dumping duties

Market share	2002	2003	2004	IP
Australia	0 %	0 %	0 %	0 %
Belarus	0 %	0 %	0 %	0 %
China	3 %	4 %	5 %	4 %
India	0 %	0 %	0 %	0 %
Indonesia	0 %	0 %	0 %	0 %
South Korea	12 %	11 %	13 %	13 %
Saudi Arabia	2 %	3 %	3 %	1 %
Thailand	0 %	0 %	0 %	0 %
Total	18 %	19 %	22 %	18 %

Source: Eurostat

- (116) As shown in the table above, market share of the countries subject to anti-dumping duties remained stable between 2002 and the IP. They first gained 4 percentage points between 2002 and 2004 and then fall back to the 2002 level. Imports from all countries subject to anti-dumping measures decreased between 2004 and the IP i.e. by 18 % in volume and 4 percentage points in market share.
- (117) In the light of the above, it is provisionally concluded that imports from third countries subject to anti-dumping measures did not have an appreciable effect on the injury of the Community industry.

2.4. Imports from other third countries not subject to anti-dumping duties

Table 13

Imports from other third countries not subject to anti-dumping duties

	2002	2003	2004	IP
Import volume in tonnes	64 305	63 720	86 359	92 775
Unit prices (Euro/mt)	1 346	1 210	1 139	1 257
Market share	8 %	8 %	10 %	11 %
<i>Of which Nigeria</i>				
Import volume in tonnes	6 677	8 173	11 834	10 901
— prices (Euro/mt)	1 063	947	995	1 218
— Market share	1 %	1 %	1 %	1 %
<i>Of which Turkey</i>				
Import volume in tonnes	20 157	15 922	38 188	37 742
— prices (Euro/mt)	1 116	1 061	1 067	1 204
— Market share	2 %	2 %	5 %	5 %

(118) Imports from other third countries not subject to anti-dumping duties slightly decreased between 2002 and 2003 and then increased by 45 % between 2003 and the IP. Although their prices decreased by 7 % between 2002 and the IP they remained however 9 % higher than the prices of the countries concerned in the IP.

(119) Only two countries had market share equal or above 2 % i.e. Turkey and Nigeria

(120) However, it should be noted that their prices were increasing respectively by 8 % and 15 % between 2002 and the IP and even more significantly between 2004 and the IP respectively by 13 % and 22 % while prices from the countries concerned increased by only 10 % during the same period. In addition, their prices were on average 4 % higher than the prices charged by Taiwanese and Malaysian exporters during the IP. Although the volume of Turkish and Nigerian PSF significantly increased between 2002 and the IP, they respectively amount to only 10,1 % and 2,7 % of the imports into the Community and only Turkey gained a small market share between 2002 and the IP i.e. 3 percentage points. Thus, Nigerian imports could not have contributed to the injury suffered by the Community industry.

(121) Regarding Turkey, it should be mentioned that most of the imports of PSF into the Community are made by one of the complainant companies included in the definition of the Community industry, which is related to a Turkish exporting producer. These purchases aimed at supplementing the product range of the Community producer in question in periods of intensive market demand. Furthermore, these imports were not caused by any abandoned or delayed investment projects susceptible of having provoked a reduction in the production capacity of the Community related company. It was therefore concluded that the Turkish products completed the product range of the Community industry enabling it to offer a wider choice of models to customers and that they did not affect negatively the situation of the Community industry.

- (122) In the light of the above, it is provisionally concluded that imports from third countries without anti-dumping measures did not have an appreciable effect on the injury of the Community industry.

2.5. Other Community producers

- (123) The other Community producers of the product concerned held a market share of 41 % during the IP. During the period considered, their sales volume decreased by 15 % and their market share declined by 9 percentage points. This suggests that they are in a similar situation to the Community industry, i.e. that they have suffered injury from the dumped imports. Therefore, it cannot be concluded that other Community producers caused material injury to the Community industry.

2.6. Fluctuation of raw material prices

- (124) Since the cost of raw materials is a substantial part of the total cost of production of PSF (about 60 % of total cost of production) it was also examined whether the material injury suffered by the Community industry had been caused by any increase of the raw material prices. The production of so called virgin PSF is made out of derivatives of petroleum (mainly mono ethylene glycol — MEG — and purified terephthalic acid — PTA —). It can also be produced out of recycled materials (polyethylene terephthalate — PET — bottles and other waste). Finally, PSF can be made from a combination of both kinds of raw materials, derivatives of petroleum and recycled PET waste.
- (125) Prices of MEG and PTA, as derivatives of petroleum, depend on the price fluctuations of this latter. In this respect, as already explained in the Council Regulation (EC) No 428/2005 ⁽¹⁾, prices of MEG and PTA increased from 2002 until the end of 2003 by 14 %. In addition, on the basis of different submissions which referred to international sources for the MEG and PTA price evolutions, it was found that prices of MEG and PTA increased from 2003 until the mid of the IP by 25 % and 29 % respectively i.e. an increase of around 40 % between 2002 and mid 2005.
- (126) Extraction from Eurostat even showed a price increase of 36 % between 2002 and the IP for PTA and 75 % for the MEG during the same period. This trend was also confirmed by information submitted by the sole supplier of raw materials which cooperated.
- (127) As can be seen from recital 95 above the full cost of production increased by 17 % between 2002 and the IP. This shows that rationalisation efforts have been made by the Community industry to improve its efficiency and offset in particular the effect of the raw materials price increase described in recitals 124 and 125 above. This is also confirmed by the gain in productivity as shown in recital 99. However, in spite of the rationalisation efforts of the Community industry, this increase in raw materials prices could not be totally reflected in the average sales price of the Community produced PSF which rose by only 9 % from 2002 to the IP, despite the fact that fibres are price sensitive products.
- (128) Moreover, it is worth noting that all producers in the world, thus including those in the countries concerned, were facing similar increase in raw material prices as these are worldwide traded commodity products. It is therefore clear that the producers in the countries concerned did not increase significantly their export prices to the Community to reflect that evolution. It is therefore considered that the low level of export price from the countries concerned has caused a price suppression and led to a situation where the Community Industry could not increase its own sales prices adequately. Otherwise the loss in customers and market share would have been greater than the one found.

⁽¹⁾ OJ L 71, 17.3.2005, p. 1.

- (129) Accordingly, it is considered that even if it may appear that the increase of raw material costs may have contributed to some extent to the injury suffered by the Community industry, it is not the real cause of that injury. Indeed, it is the presence of low-priced dumped imports which prevented the Community industry to adapt their prices to the increased costs and thus have caused the material injury.

2.7. Fluctuation of exchange rates

- (130) Some interested parties argued that the price evolution of the imports concerned was influenced by the evolution of the Euro vis-à-vis the US dollar. It is true that between 2002 and the IP, the US dollar continuously depreciated, i.e. from 1,06 EUR to 0,79 EUR or – 25 %.
- (131) It is recalled that the investigation has to establish whether the dumped imports (in terms of prices and volume) have caused material injury to the Community industry or whether such material injury was due to other factors. In this respect, Article 3(6) of the basic Regulation states that it is necessary to show that the price level of the dumped imports cause injury. It therefore merely refers to a difference between price levels, and there is thus no requirement to analyse the factors affecting the level of those prices.
- (132) In practice, the effect of the dumped imports on the Community industry's prices is essentially examined by establishing price undercutting, price depression and price suppression. For this purpose, the dumped export prices and the Community industry's sales prices are compared, and export prices used for the injury calculations may sometimes need to be converted into another currency in order to have a comparable basis. Consequently, the use of exchange rates in this context only ensures that the price difference is established on a comparable basis. From this, it becomes obvious that the exchange rate can in principle not be another factor of the injury.
- (133) The above is also confirmed by the wording of Article 3(7) of the basic Regulation, which refers to known factors other than dumped imports. The list of the other known factors in this Article does not make reference to any factor affecting the price level of the dumped imports. To summarise, if the exports are dumped, and even if they benefited from a favourable development of exchange rates, it is difficult to see how the development of such exchange rate could be another factor causing injury.
- (134) Thus, the analysis of the factors affecting the level of the prices of the dumped imports, be it exchange rate fluctuations or something else, cannot be conclusive and such analysis would go beyond the requirements of the basic Regulation.
- (135) In any event, and without prejudice of the above, any allegation of the Euro appreciation in respect of the USD as a cause of injury of the Community industry should be especially valid for the period where said appreciation mainly took place i.e. from 2002 to 2004, and in particular during the first two years, when the differences among both currencies have been more accentuated. In that respect, it is noteworthy that imports concerned decreased by 5 % between 2002 and 2003 while the sharpest depreciation of the USD vis-à-vis the Euro took place during the same period (i.e. -16 %). Similarly, while the USD depreciated by 25 % between 2002 and 2004, imports concerned increased by only 16 %, while when the USD depreciated by a further 2 % between 2004 and 2005, imports concerned increased by 75 %.
- (136) Moreover, imports from countries other than those found to be dumping have also benefited from the appreciation of the Euro. However, their volumes increased much more smoothly than those from the countries concerned and their trend was more in line with the exchange rates fluctuations. Indeed, they increased by 35 % between 2002 and 2004 when USD depreciated by 25 % (while imports concerned increased by 17 %), and by only 7 % between 2004 and the IP, when the USD depreciated by a further 2 % (while imports concerned increased by 75 %).

- (137) The fact that currency exchange rates and imports from the countries concerned followed different trends (between 2002 and 2003) or trends with diverging extent (between 2004 and the IP) indicates that it cannot be considered as a causal factor for the surge of dumped imports from the countries concerned as argued by interested parties.

2.8. Lack of restructuring of the Community industry

- (138) Some interested parties argued that the Community industry was unable to restructure and to fully benefit from the anti-dumping duties imposed for many years on a wide range of third countries.
- (139) However, it should be considered that during that number of years, the Community industry has been suffering from trade distortion and dumped prices which third countries practiced in turn. The Community market was therefore systematically biased by these distortions thus preventing the Community industry to recover from dumping practices and take business decisions on a sound basis. This has deprived that industry of the necessary predictability in particular for long term decisions.
- (140) In addition, as explained in recital 127 the Community industry has made restructuring efforts that allowed gaining productivity and compensating for raw material price increases. This was done with the continued presence of dumped imports and thus shows that that industry is viable and can be profitable, should a level playing field be restored on the Community market.

3. Conclusion on Causation

- (141) Based on the above analysis, which has properly distinguished and separated the effects of all known factors having an effect on the situation of the Community industry from the injurious effect of the dumped imports, it is provisionally concluded that there is a causal link between the dumped imports and the material injury suffered by the Community industry within the meaning of Article 3(6) of the basic Regulation. This conclusion is based, on the one hand, on the significant increases in volumes and market shares of the imports concerned, accompanied by a substantial price undercutting, and, on the other the loss of market share and the consequent worsening financial situation. All these developments coincided in time. None of the other factors examined could have explained the deteriorating situation of the Community industry.

F. COMMUNITY INTEREST

1. Preliminary remark

- (142) In accordance with Article 21 of the basic Regulation, it was considered whether despite the conclusion of injurious dumping, compelling reasons exist for concluding that it is not in the Community interest to adopt anti-dumping measures in that particular case. The determination of the Community interest was based on an examination of all the various interests involved, i.e. those of the Community industry, the importers, traders and the users of the product concerned.
- (143) In order to assess the likely impact of the imposition or non-imposition of measures information was requested from all interested parties which were either known to be concerned or which made themselves known. On this basis, the Commission sent questionnaires to the Community industry, three unrelated importers, 22 users and three suppliers of raw materials. In addition, the Commission contacted also 14 Community producers which did not provide the information requested for the selection of the sample in order to obtain basic information on their production and sales.
- (144) As explained in recital 10, the three complainant Community industry producers, one unrelated importer, seven users and one supplier of raw materials replied to the questionnaire. In addition, six Community producers provided the basic information on their production and sales. In addition, three users associations provided submissions against the measures.

2. Community industry

- (145) It is recalled that the Community industry has suffered material injury, as set out in recitals 104 to 108.
- (146) The imposition of measures is expected to prevent a continuing distortion of the market and suppression of prices. Measures would enable the Community industry to increase its sales and thereby recover lost market share, and benefiting from economies of scale. Moreover, it is expected that the Community industry could slightly increase their selling prices at a level that would cover costs and allow for a profit. This would likely enable the Community industry to reach the levels of profitability which are necessary in that capital intensive business where continued investments need to be done and to take advantage of developments in the Community market. This would guarantee the viability of the Community industry's PSF business.
- (147) Otherwise, should anti-dumping measures not be imposed, it is likely that the negative trend of the financial situation of the Community industry will continue. The Community industry is particularly marked by a loss of revenue due to depressed prices, falling market share and significant losses. Indeed, in view of the decreasing revenue and the significantly worsening trend in the IP, it is most likely that the financial situation of the Community industry will deteriorate further in the absence of any measures. This would ultimately lead to cuts in production and closures of production sites, which would therefore threaten employment and investments in the Community. This is particularly true since the European market is now one of the few export markets left to the countries concerned after the imposition of anti-dumping duties on PSF from Taiwan in other third countries such as the United States of America, India and Japan.
- (148) Accordingly, it is provisionally concluded that the imposition of anti-dumping measures would allow the Community industry to recover from the injurious dumping suffered and would thus be in the interest of the Community industry. The other Community producers would also in all likelihood benefit from the imposition of anti-dumping measures. Indeed, the other Community producers which did not provide the information requested for the selection of the sample but were subsequently contacted in order to obtain basic information on their production and sales were found in similar situation since their sales volume decreased by 23 % and their sales prices increased also by only 12 %.

3. Impact on importers and users

- (149) Only one importer could be considered as cooperating and this importer was against the imposition of measures for the reason that they prevented import of PSF as raw material and could allegedly force the downstream industry to delocalise outside the EU. However, this importer was not able to provide precise information on the consequence of any measures on its own business or any data regarding the profitability of its sales of the product concerned. Therefore, it has not been possible to assess the likely effect of the proposed anti-dumping measures on the profitability of the co-operating importer.
- (150) It should be recalled that anti-dumping measures are not intended to prevent imports into the Community, but they are ensuring that imports are not made at dumped prices and that operators have access to fairly-priced PSF. Imports have always been allowed and will still be allowed to enter into the Community market. Recent experience has shown that even with anti-dumping measures traditional South Korean exporters have continued to supply Community-based customers. As explained in recital 159 below anti-dumping measures on certain countries such as India, Australia and Indonesia have expired and there are alternative sources of supply available which are not subject to anti-dumping duties, as for example PSF from Nigeria and Turkey.

- (151) On this basis, and given the large number of importers not cooperating in the proceeding, it is provisionally concluded that anti-dumping measures will not have such a negative impact on importers as a whole as to outweigh the need to eliminate the trade distorting effects of injurious dumping and to restore effective competition.
- (152) Users of the product concerned belong to the textile sector. The PSF market is divided into the spinning consumption (i.e. the manufacturing of filaments for the production of textiles, after mixing or not with other fibres such as cotton or wool), the non-woven consumption (i.e. the manufacturing of sheets and webs that have not been converted into yarns and that are bonded to each other by friction, and/or cohesion, and/or adhesion, excluding paper), and the filling consumption (i.e. the stuffing or padding of certain textile goods, as for example cushions or car seats).
- (153) Most of the cooperating users in this proceeding are producers of non-woven products. Said users are members of one of the three users associations cooperating in this proceeding, which represents the non woven industry at a European level.
- (154) Further to information on purchases reported in their responses to the questionnaires, cooperating users during the IP represent about 6 % of total Community consumption of PSF and about 7 % of total imports from the countries concerned. It is noteworthy that imports from the countries concerned represent the minor part of their purchases i.e. 16 %, while imports from other third countries and purchases in the EU still represent respectively 44 % and 40 % of their purchases. One of the cooperating users did not even import from the countries concerned between 2002 and the IP.
- (155) Users have indicated a number of arguments against the imposition of duties.
- (156) First, the users claimed that anti-dumping measures could put at risk a downstream industry which employs more than 20 000 people, while the Community industry allegedly employs less than 1 700 persons. It has been alleged that the imposition of duties could lead to a loss of jobs in the downstream industry or to moving manufacturing facilities overseas.
- (157) They also claimed that the imposition of anti-dumping duties would trigger price increases which users would need to reflect in downstream products. This development would in turn trigger an increase in imports of lower priced downstream products from other third countries and from the countries concerned by this investigation.
- (158) They finally claimed that the Community industry is unable to fully supply the Community market and that the imposition of the anti-dumping duties would worsen the users' financial situation given that they would have to continue to import from the countries concerned products which are not available within the Community such as the so-called low melt polyester.

- (159) Regarding the Community market's alleged dependence on external suppliers, it is recalled that by Council Regulation (EC) No 1515/2006 ⁽¹⁾ it was decided to repeal the existing measures on imports from Australia, Indonesia, Thailand and India. While the anti-dumping measure imposed by Council Regulation (EC) No 1522/2000 ⁽²⁾ and Council Regulation (EC) No 2852/2000 ⁽³⁾ almost stopped imports from those countries, it is noteworthy that before the imposition of anti-dumping measures on their imports of PSF in the Community market, Australia, Indonesia and Thailand held a market share of 8,9 % and India a market share of 2,9 %. It is therefore likely that, once anti-dumping measures are removed, imports from these third countries will resume and be reoriented towards the Community market. In addition, imports from other third countries already hold an important share of the Community market, reaching 11 % in the IP.
- (160) Therefore, in spite of the proposed introduction of duties against Taiwan and Malaysia, and taking into account the termination of the measures against Australia, Indonesia, Thailand and India, the Community users which already during the IP purchased 84 % of their needs outside the countries concerned, would still be able to rely on (or to switch to) important suppliers of the product concerned in the Community or on other major providers located in countries not subject to antidumping duties, should it be for specific product such as low melt polyester (LMF).
- (161) This is also confirmed by one of the users which stated that the so called LMF can be supplied by Korea or Japan and that two European producers also produce it. It shows that at least two European producers have technology and know how to produce such a specific product and that it cannot be excluded that once prices reach a level at which the effects of injurious dumping are removed, production and supply will increase within the Community.
- (162) In addition although certain types of PSF were not produced by the Community industry during certain periods, this does not mean that the Community industry would not be in a position to produce those types. Indeed, depending on the product type, only small adaptations of the production process, requiring low investment, would be needed. Rather, at particular moments in time, certain PSF types were not available because the Community producers could not deliver the quantities involved at the depressed price levels which users were willing to pay.
- (163) Regarding the level of employment within the Community industry and the downstream industry, it is noteworthy that during a number of years, the Community industry has been suffering from low priced, dumped, imported PSF causing a situation in which employment continuously decreased, as shown in recital 99. The fact that more people are employed in the downstream industry than in the PSF production does not in itself justify to put at risk a Community industry which can merely be less labour intensive than the downstream industry and which is, as demonstrated in recital 154 above, also vital for the users, since all the cooperating users purchased partially the Community product.
- (164) Regarding the likely impact on the downstream industry's financial situation, the information available on the cost structure of the user industry, the level of the proposed measures and the share between dumped imports and the other sources of supply indicate that:

— PSF represents between 10 % and 40 % of the users total cost of production of downstream products,

⁽¹⁾ OJ L 282, 13.10.2006, p. 1.

⁽²⁾ OJ L 175, 14.7.2000, p. 10.

⁽³⁾ OJ L 332, 28.12.2000, p. 17.

- the average anti-dumping duty is about 24,9 % for the countries concerned,
- the share of dumped imports is 15,3 % of total consumption of PSF.

The proposed measures may thus have the impact of increasing the cost of production of users by between 0,4 % to a maximum of 1,5 %. This likely maximum increase is considered to be relatively low when compared to the positive impact of the proposed measures in restoring effective competition on the Community market.

- (165) This analysis on the impact of the proposed measures on users therefore indicated that the imposition of anti-dumping measures is not likely to trigger an increase in the import of cheap downstream products into the Community. This conclusion was also reached in the absence of any evidence from the users concerned substantiating their claim, e.g. that past measures on this product had led to such effects.

4. Impact on suppliers of raw materials

- (166) One provider of raw materials has cooperated in the present proceeding by submitting a response to the questionnaire. It supplies the PSF industry with PTA and MEG and has expressly supported the imposition of duties which would allow the Community industry to remain viable and would also secure his own position.

5. Conclusion on Community interest

- (167) Taking into account all of the above factors, and taking into account the level of measures as well as the termination of the proceeding against Australia, Indonesia, Thailand and India, it is concluded that the imposition of measures would not have a significantly negative effect, if any at all, on the situation of the users and importers of the product concerned. It is also recalled that in the previous proceedings concerning the same product, the adoption of measures was considered not to be against the interest of the Community.
- (168) On this basis, it is provisionally concluded that there are no compelling reasons not to impose anti-dumping measures.

G. PROVISIONAL ANTI-DUMPING MEASURES

1. Injury elimination level

- (169) In view of the provisional conclusions reached with regard to dumping, injury, causation and Community interest, provisional measures should be imposed in order to prevent further injury being caused to the Community industry by the dumped imports.
- (170) For the purpose of establishing the level of the provisional measures, account has been taken of both the dumping margin found and the amount of duty necessary to eliminate the injury sustained by the Community industry.

- (171) The provisional measures should be imposed at a level sufficient to eliminate the injury caused by these imports without exceeding the dumping margin found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs of production and obtain overall a profit before tax that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on the sales of the like product in the Community.
- (172) The investigation confirmed that in the absence of dumped imports the Community industry should yield a profit before taxes of 5 %. This profit should allow the industry to cover its costs. On this basis a non-injurious price was calculated for the Community industry of the like product. The non-injurious price has been obtained by adding the above mentioned profit margin of 5 % to the cost of production.
- (173) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the undercutting calculations, with the average non-injurious price. Any difference resulting from this comparison was then expressed as a percentage of the average import CIF value.

2. Provisional measures

- (174) In the light of the foregoing, it is considered that a provisional anti-dumping duty should be imposed at the level of the dumping margin found, but should not be higher than the injury margin calculated above in accordance with Article 7(2) of the basic Regulation.
- (175) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigations. Therefore, they reflect the situation found during these investigations with respect to the cooperating companies. These duty rates (as opposed to the residual duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the countries concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (176) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting-up of new production or sales entities) should be addressed to the Commission ⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.
- (177) In order to ensure a proper enforcement of the anti-dumping duty, the residual duty level should not only apply to the non-cooperating exporting producers, but also to those producers which did not have any exports to the Community during the IP. However, with regard to exporting producers in Malaysia, for which no sampling was applied, those latter companies are invited, when they fulfil the requirement of Article 11(4) of the basic Regulation, second paragraph, to present a request pursuant to that Article in order to have their situation examined individually.

⁽¹⁾ European Commission
Directorate-General for Trade
Direction B
Office J-79 5/16
B-1049 Brussels.

The proposed anti-dumping duties are the following:

Country	Company	Anti-dumping duty (in %)
Malaysia	Hualon Corportaion (M) Sdn. Bhd. Level 9 Wisma Goldhill 67 Jalan Raja Chualan 50200 Kuala Lumpur	12,4
	Penfibre Sdn. Bhd. Lot 109-114 Prai Free Industrial Zone 1 13600 Prai, Penang	14,7
	All other companies	23,0
Taiwan	Chung Shing Textile Co., Ltd. No 463, Hua Cheng Road, Hsin Chuang City Taipei Hsien	16,5
	Far Eastern Textile Ltd. 33Fl, No 207, Sec. 2, Tun Hwa South Road Taipei	29,5
	Nan Ya Plastics Corporation 5Fl, No. 201, Tung Hwa North Road Taipei	29,5
	Shing Ming Ind., Co., Ltd. No 330, Ho Shin Rd, Chu-Nan, Miao-Li	16,5
	Shingkong Synthetic Fibres Corporation 8Fl, No 123, Sec. 2, Nanking E. Road Taipei	16,5
	Tainan Spinning Co., Ltd. 4Fl, No 560, Sec. 4, Chung Hsia e. Road Taipei	16,5
	Tung Ho Spinning Weaving & Dyeing Co., Ltd. 13Fl, No 376, Sec. 4, Jen Ai Rd Taipei	14,7
	Tuntex Distinct Corporation 16Fl, No. 90, Sec 1, Hsin-Tai 5th Rd Hsichih Taipei County	18,2
	Tuntex Synthetic Corporation 16Fl. No 90, Sec 1, Hsin-Tai 5th Rd Hsichih Taipei County	18,2
	True Young Co., Ltd. 8, Li Hsing St. Erch Chen Village Kwantien Hsiang Tainan Hsien, 720	29,5
	All other companies	29,5

H. FINAL PROVISION

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on synthetic staple fibres of polyesters, not carded, not combed or otherwise processed for spinning, falling within CN code 5503 20 00, originating in Malaysia and Taiwan.
2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, of the products described in paragraph 1, shall be as follows:

Country	Manufacturer	Rate of duty (%)	Taric Additional code
Malaysia	Hualon Corporation (M) Sdn. Bhd. Level 9 Wisma Goldhill 67 Jalan Raja Chualan 50200 Kuala Lumpur	12,4	A796
	Penfibre Sdn. Bhd. Lot 109-114 Prai Free Industrial Zone 1 13600 Prai, Penang	14,7	A797
	All other companies	23,0	A999
Taiwan	Chung Shing Textile Co., Ltd. No 463, Hua Cheng Road, Hsin Chuang City Taipei Hsien	16,5	A798
	Far Eastern Textile Ltd. 33Fl, No 207, Sec. 2, Tun Hwa South Road Taipei	29,5	A799
	Nan Ya Plastics Corporation 5Fl, No. 201, Tung Hwa North Road Taipei	29,5	A800
	Shing Ming Ind. Co., Ltd. No 330, Ho Shin Rd, Chu-Nan, Miao-Li	16,5	A801
	Shingkong Synthetic Fibres Corporation 8Fl, No 123, Sec. 2, Nanking E. Road Taipei	16,5	A802
	Tainan Spinning Co., Ltd. 4Fl, No 560, Sec. 4, Chung Hsia e. Road Taipei	16,5	A803
	Tung Ho Spinning Weaving & Dyeing Co., Ltd. 13Fl, No 376, Sec. 4, Jen Ai Rd Taipei	14,7	A804

Country	Manufacturer	Rate of duty (%)	Taric Additional code
	Tuntex Distinct Corporation 16Fl, No. 90, Sec 1, Hsin-Tai 5th Rd Hsichih Taipei County	18,2	A805
	Tuntex Synthetic Corporation 16Fl. No. 90, Sec 1, Hsin-Tai 5th Rd Hsichih Taipei County	18,2	A806
	True Young Co., Ltd. 8, Li Hsing St. Erch Chen Village Kwantien Hsiang Tainan Hsien, 720	29,5	A807
	All other companies	29,5	A999

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

4. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provisions of a security, equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 20 of Regulation (EC) No 384/96, the interested parties may make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

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

Article 3

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

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

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

Done at Brussels, 22 December 2006.

For the Commission

Peter MANDELSON

Member of the Commission

COMMISSION REGULATION (EC) No 2006/2006**of 22 December 2006****amending Regulation (EC) No 950/2006 to include the annual tariff quota for sugar products originating in Croatia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector ⁽¹⁾, and in particular Article 40(1)(e)(iii),

Whereas:

- (1) Pursuant to Article 27(5) of and Annex IV(h) to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part ⁽²⁾, as amended by the Protocol approved by Council Decision (EC) No 2006/882/EC of 13 November 2006 ⁽³⁾, the Community is to allow duty-free access for imports into the Community of products originating in Croatia falling within CN codes 1701 and 1702, within the limit of an annual quantity of 180 000 tonnes (net weight).
- (2) The Protocol to the Stabilisation and Association Agreement with Croatia enters into force on 1 January 2007. The tariff quota for sugar products originating in Croatia should therefore be opened as from that date.
- (3) That quota should be opened and administered in accordance with Commission Regulation No 950/2006 of 28 June 2006 laying down detailed rules of application for the 2006/2007, 2007/2008 and 2008/2009 marketing years for the import and refining of sugar products under certain tariff quotas and preferential agreements ⁽⁴⁾, as 'Balkans sugar' within the meaning of that Regulation. Since Article 28 of that Regulation opens the tariff quotas for Balkans sugar on a marketing year basis, the annual tariff quota for sugar products originating in Croatia should be adjusted for the remaining nine months of the marketing year 2006/2007.
- (4) Regulation (EC) No 950/2006 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 950/2006 is amended as follows:

1. In Article 1(1), the following point is added:

'(h) Article 27(5) of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia.'

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

'2. Quantities imported in accordance with the provisions referred to in paragraph 1(c) to (h) (hereinafter referred to as "tariff quotas"), and with the provisions referred to in points (a) and (b) of that paragraph (hereinafter referred to as "delivery obligations") for the 2006/2007, 2007/2008 and 2008/2009 marketing years shall bear the quota serial numbers shown in Annex I.'

3. In Article 2, point (d) is replaced by the following:

'(d) "Balkans sugar" means sugar products falling within CN codes 1701 and 1702 originating in Albania, Bosnia and Herzegovina, Serbia, Montenegro, Kosovo, the former Yugoslav Republic of Macedonia or Croatia and imported into the Community under Regulation (EC) No 2007/2000, the Stabilisation and Association Agreement with the former Yugoslav Republic of Macedonia and the Stabilisation and Association Agreement with the Republic of Croatia.'

4. Article 28 is replaced by the following:

'Article 28

1. For each marketing year, duty-free tariff quotas for a total of 380 000 tonnes of sugar products falling within CN codes 1701 and 1702 shall be opened as Balkans sugar.

However, for the 2006/2007 marketing year the quantity shall be 381 500 tonnes of sugar products falling with CN codes 1701 and 1702.

⁽¹⁾ OJ L 58, 28.2.2006, p. 1. Regulation as amended by Commission Regulation (EC) No 1585/2006 (OJ L 294, 25.10.2006, p. 19).

⁽²⁾ OJ L 26, 28.1.2005, p. 3.

⁽³⁾ OJ L 341, 7.12.2006, p. 31.

⁽⁴⁾ OJ L 178, 1.7.2006, p. 1.

2. The quantities referred to in paragraph 1 shall be allocated by country of origin as follows:

— Albania	1 000 tonnes,
— Bosnia-Herzegovina	12 000 tonnes,
— Serbia and Montenegro	180 000 tonnes,
— Former Yugoslav Republic of Macedonia	7 000 tonnes,
— Croatia	180 000 tonnes.

However, for the 2006/2007 marketing year the allocation by country of origin shall be:

— Albania	1 250 tonnes,
— Bosnia-Herzegovina	15 000 tonnes,
— Serbia and Montenegro	225 000 tonnes,
— Former Yugoslav Republic of Macedonia	5 250 tonnes,
— Croatia	135 000 tonnes.

The quotas for the former Yugoslav Republic of Macedonia and Croatia for the 2006/2007 marketing year shall be opened from 1 January 2007 only.'

5. In Article 29, paragraph 2 is replaced by the following:

'2. Import licence applications for Balkans sugar from the customs territories of Montenegro, Serbia, Kosovo or Croatia shall be accompanied by the original of the export licence issued by the competent authorities of the customs territories of Montenegro, Serbia, Kosovo or Croatia in accordance with the model in Annex II for a quantity equal to that in the licence application.'

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

Article 2

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

It shall apply from 1 January 2007.

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

Done at Brussels, 22 December 2006.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

In Annex I to Regulation (EC) No 950/2006, the table relating to serial numbers for Balkans sugar is replaced by the following:

'Serial numbers for Balkans sugar'

Third country	Serial number
Albania	09.4324
Bosnia and Herzegovina	09.4325
Serbia, Montenegro and Kosovo	09.4326
Former Yugoslav Republic of Macedonia	09.4327
Croatia	09.4328'

COMMISSION REGULATION (EC) No 2007/2006**of 22 December 2006****implementing Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards the importation and transit of certain intermediate products derived from Category 3 material intended for technical uses in medical devices, in vitro diagnostics and laboratory reagents and amending that Regulation****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption ⁽¹⁾, and in particular Article 32(1) and point 4 of Chapter IV(A) of Annex VIII thereof,

Whereas:

and uses under other Community legislation should be sufficient to ensure that they are not diverted into the food and feed chains at a later stage, provided that risk-appropriate channelling, recording and control measures are put in place.

(5) The placing on the market of the intermediate products concerned should therefore be channelled in accordance with Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries ⁽²⁾, and subjected to specific identification and control measures, in order to reduce the risk of diversion into the food and feed chains and other unintended uses.

(1) Regulation (EC) No 1774/2002 provides that certain animal by-products may be imported into the Community for the production of technical products provided that they comply with that Regulation.

(2) Annex VIII to Regulation (EC) No 1774/2002 sets out the requirements for the placing on the market of certain technical products including starting materials to be used for or in the production of technical products which may include medical devices, in vitro diagnostics and laboratory reagents.

(3) However, certain Member States, trading partners and operators have expressed concerns over the importation of certain products sourced from Category 3 material intended for the production of medical devices, in vitro diagnostics and laboratory reagents ('the intermediate products'). It is therefore necessary to clarify the importation requirements and to lay down specific conditions for those intermediate products.

(4) Although the intermediate products concerned may have been subjected to preliminary processing, the way in which they are transported to the Community does not make it possible to differentiate them from other types of animal by-products intended for other technical uses, except by taking into account their intended destination and uses. The monitoring of their intended destination

(6) Annex VIII to Regulation (EC) No 1774/2002 sets out the requirements for the placing on the market of technical products. A comprehensive review and clarification of that Annex is to be undertaken once the transitional regime provided for in that Regulation has expired. It is therefore, appropriate to lay down in the meantime the rules required for the importation of intermediate products intended for technical uses in medical devices, in vitro diagnostics and laboratory reagents in a specific regulation complementing the rules already laid down in that Annex.

(7) Until a full review and clarification has been undertaken, it is necessary to clarify the scope of Chapters IV and XI of Annex VIII to Regulation (EC) No 1774/2002 to take into account this specific Regulation being laid down. The rules set out in Chapter IV should concern blood used for all technical purposes and blood products other than the serum of equidae used for technical purposes other than medical devices, in vitro diagnostics or laboratory reagents. The rules set out in Chapter V should continue to concern the serum of equidae intended for any technical purposes, including medical devices, in vitro diagnostics or laboratory reagents, and thus such rules do not need to be amended. The rules set out in Chapter XI should concern the importation of other non-processed animal by-products, which are not covered by this Regulation, imported for any purposes, including medical devices, in vitro diagnostics or laboratory reagents.

⁽¹⁾ OJ L 273, 10.10.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 208/2006 (OJ L 36, 8.2.2006, p. 25-31).

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

- (8) As a consequence of such clarification, some amendments need to be made to certain model health certificates laid down in Annex X to Regulation (EC) No 1774/2002.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation shall apply to the importation and transit through the Community of an 'intermediate product', as defined in Article 2 of this Regulation.

Article 2

Definition

An 'intermediate product' means a product derived from Category 3 material intended for the manufacture of medical devices, in vitro diagnostics or laboratory reagents, and whose design, transformation and manufacturing stages have been sufficiently completed in order to be regarded as processed products and to qualify the material for that purpose, except for the fact that it requires some further handling or transformation such as mixing, coating, assembling, packaging or labelling to make it suitable for placing on the market or putting into service in accordance with the Community legislation applicable to the final products concerned.

Article 3

Importation

Member States shall authorise imports of the intermediate products that comply with the following conditions:

- (a) they come from a third country listed as member of the World Organisation for Animal Health (OIE) in the OIE Bulletin;
- (b) they come from a plant registered or approved by the competent authority of a third country referred to in point (a) of this Article in accordance with the conditions set out in Annex I to this Regulation;
- (c) they are derived exclusively from Category 3 material;
- (d) each consignment must be accompanied by a commercial document indicating:
- (i) the country of origin,

- (ii) the name of the establishment of production; and

- (iii) that the outer packaging of intermediate products is labelled 'FOR MEDICAL DEVICES/IN VITRO DIAGNOSTICS/LABORATORY REAGENTS ONLY'.

The commercial document must be in at least one of the official languages of the EU Member State in which the inspection at the border inspection post shall be carried out and of the EU Member State of destination. These Member States may allow other languages, if necessary, accompanied by an official translation.

- (e) they are accompanied by a declaration of the importer in accordance with the model declaration set out in Annex II to this Regulation. The declaration must be in at least one of the official languages of the EU Member State in which the inspection at the border inspection post shall be carried out and of the EU Member State of destination. These Member States may allow other languages, if necessary, accompanied by an official translation.

Article 4

Checks, transport and labelling

1. The intermediate products imported into the Community shall be checked at the border inspection post of first entry in accordance with Article 4 of Directive 97/78/EC and transported directly from the border inspection post of entry into the Community either:

- (a) to a technical plant approved in accordance with Article 18 of Regulation (EC) No 1774/2002, where the intermediate products shall be further mixed, used for coating, assembled, packaged or labelled before they are placed on the market or put into services in accordance with the Community legislation applicable to the final product; or
- (b) to a Category 3 intermediate plant or storage plant approved in accordance with Article 10(3) or with Article 11 of Regulation (EC) No 1774/2002.

2. Intermediate products in transit through the Community shall be transported in accordance with Article 11 of Directive 97/78/EC.

3. The official veterinarian at the border inspection post concerned shall inform the authority in charge of the plant at the place of destination of the consignment via the TRACES system.

4. The outer packaging of intermediate products shall be labelled: 'FOR MEDICAL DEVICES/IN VITRO DIAGNOSTICS/LABORATORY REAGENTS ONLY'.

*Article 5***Use and dispatch**

The operator or owner of the plant of destination or his representative shall use and/or dispatch the intermediate products exclusively for the technical purposes specified in the approval of the plant, as referred to in point (a) of Article 4(1).

*Article 6***Records on use and dispatch**

The operator or owner of the plant of destination or his representative shall keep records in accordance with Article 9(1) of Regulation (EC) No 1774/2002 and shall provide the competent authority on request with the necessary details of purchases, sales, uses, stocks and disposals of surplus of the intermediate products for the purposes of checking compliance with this Regulation.

*Article 7***Control**

1. The competent authority shall ensure, in accordance with Directive 97/78/EC, that the consignments of intermediate products are sent from the EU Member State in which the inspection at the border inspection post shall be carried out to the plant of destination, as referred to in Article 4(1) of this Regulation, or in the case of transit, to the post of exit.

2. The competent authority shall carry out documentary checks at regular intervals for the purpose of reconciliation of the quantities of intermediate products imported on the one hand, and stocked, used, dispatched or disposed of on the other, in order to check compliance with this Regulation.

3. For consignments of intermediate products in transit, the competent authorities responsible for the border inspection posts of entry and of exit respectively shall cooperate as necessary to ensure that effective checks are carried out and to ensure the traceability of such consignments.

*Article 8***Amendment to Annexes VIII and X of Regulation (EC) No 1774/2002**

Annexes VIII and X to Regulation (EC) No 1774/2002 are amended in accordance with Annex III to this Regulation.

*Article 9***Entry into force**

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

It shall apply from 1 January 2007.

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

Done at Brussels, 22 December 2006.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX I

Conditions for the registration or approval of the plant of origin in accordance with point (b) of Article 3

1. The operator or owner of the plant or his representative shall:
 - (a) ensure that the plant has adequate facilities for the transformation of Category 3 material, to ensure the completion of the design, transformation and manufacturing stages referred to in Article 2;
 - (b) establish and implement methods of monitoring and checking the critical control points on the basis of the process used;
 - (c) keep a record of the information obtained pursuant to (b) for a period of at least two years for submission to the competent authority;
 - (d) inform the competent authority if any available information reveals the existence of a serious animal health or public health hazard.
 2. The competent authority of the third country shall at regular intervals carry out inspections of and supervise the plants registered or approved in accordance with this Regulation.
 - (a) The frequency of inspections and supervision shall depend on the size of the plant, the type of products manufactured, risk assessment and guarantees offered, based on the principles of the system of HACCP.
 - (b) If the inspection carried out by the competent authority reveals that the provisions of this Regulation are not being complied with, the competent authority shall take appropriate action.
 - (c) The competent authority shall draw up a list of plants approved in accordance with this Regulation within its territory. It shall assign an official number to each plant, which identifies the plant with respect to the nature of its activities. The list and subsequent amendments shall be submitted to the EU Member State in which the inspection at the border inspection post shall be carried out and to the Member State of destination.
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ANNEX II

Model declaration for the importation from third countries and for the transit through the European Community of intermediate products to be used for medical devices, in vitro diagnostics and laboratory reagents

COUNTRY				Model declaration				
Part I: Details of dispatched consignment	I.1. Consignor ☐ Name Address Tel. No				I.2. Document reference number		I.2.a	
					I.3. Central Competent Authority			
					I.4. Local Competent Authority			
	I.5. Consignee Name Address Postal code Tel. No				I.6. Person responsible for the consignment in EU Name Address Postal code Tel. No			
	I.7. Country of origin		ISO code	I.8. Region of origin		Code	I.9. Country of destination	
							I.10. Region of destination	
	I.11. Place of origin Name Address				I.12. Place of destination Custom warehouse ☐ Name Address Postal code			
	I.13. Place of loading				I.14. Date of departure			
	I.15. Means of transport Aeroplane ☐ Ship ☐ Railway wagon ☐ Road vehicle ☐ Other ☐ Identification: Documentary references:				I.16. Entry BIP in EU			
				I.17.				
I.18. Description of commodity				I.19. Commodity code (HS code)				
				I.20. Quantity				
I.21. Temperature of product Ambient ☐ Chilled ☐ Frozen ☐				I.22. Number of packages				
I.23. Identification of container/Seal number				I.24. Type of packaging				
I.25. Commodities certified for: Technical use ☐ Other ☐								
I.26. For transit to 3rd Country vis-à-vis EU ☐ 3rd country ISO code				I.27. For import or admission into EU ☐				
I.28. Identification of the commodities Species Approval number of Net weight Batch number (Scientific name) establishments Manufacturing plant								

MODEL DECLARATION FOR INTERMEDIATE PRODUCTS TO BE USED FOR MEDICAL DEVICES, IN VITRO DIAGNOSTICS AND LABORATORY REAGENTS, FOR DISPATCH TO OR FOR TRANSIT THROUGH THE EUROPEAN COMMUNITY

I, the undersigned, declare that the intermediate products referred to above are intended to be imported by me into the Community and that:

1. they are derived from Category 3 material referred to in Article 6 of Regulation (EC) No 1774/2002 ⁽¹⁾ and are intended for the manufacture of medical devices, in vitro diagnostics or laboratory reagents;
2. their design, transformation and manufacturing stages have been sufficiently completed in order to be regarded as processed products and to qualify them for that purpose, except for the fact that they require some further handling or transformation such as mixing, coating, assembling, packaging or labelling to make them suitable for placing on the market or putting into service in accordance with the Community legislation applicable to the final products concerned;
3. their outer packaging is labelled 'FOR MEDICAL DEVICES/IN VITRO DIAGNOSTICS/LABORATORY REAGENTS ONLY'; and
4. they will not be diverted at any stage within the Community for any use in food, feed material, organic fertilisers or soil improvers and will be conveyed directly to the following establishment:

Name: Address:

The importer

Name: Address:

Done at:
(place) (date)

Signature:

⁽¹⁾ List of Category 3 materials (referred to in Regulation (EC) No 1774/2002 (OJ L 273, 10.10.2002, p. 1):

- (a) parts of slaughtered animals, which are fit for human consumption in accordance with Community legislation, but are not intended for human consumption for commercial reasons,
- (b) parts of slaughtered animals, which are rejected as unfit for human consumption but are not affected by any signs of diseases communicable to humans or animals and derive from carcasses that are fit for human consumption in accordance with Community legislation,
- (c) hides and skins, hooves and horns, pig bristles and feathers originating from animals that were slaughtered in a slaughterhouse, after undergoing ante-mortem inspection, and were fit, as a result of such inspection, for slaughter for human consumption in accordance with Community legislation,
- (d) blood obtained from animals other than ruminants that are slaughtered in a slaughterhouse, after undergoing ante-mortem inspection, and were fit, as a result of such inspection, for slaughter for human consumption in accordance with Community legislation,
- (e) animal by-products derived from the production of products intended for human consumption, including degreased bones and greaves,
- (f) former foodstuffs of animal origin, or former foodstuffs containing products of animal origin, other than catering waste, which are no longer intended for human consumption for commercial reasons or due to problems of manufacturing or packaging defects or other defects which do not present any risk to humans or animals,
- (g) milk originating from animals which do not show any clinical signs of any disease communicable through that product to humans or animals,
- (h) fish or other sea animals, except sea mammals, caught in the open sea for the purposes of fishmeal production,
- (i) by-products from fish from plants manufacturing fish products for human consumption,
- (j) shells, hatchery by-products and cracked egg by-products originating from animals which did not show clinical signs of any disease communicable through that product to humans or animals.

ANNEX III

Annexes VIII and X to Regulation (EC) No 1774/2002 are amended as follows:

1. Annex VIII is amended as follows:

(a) the heading of Chapter IV is replaced by the following:

'Requirements for blood and blood products used for technical purposes, excluding the serum of equidae and excluding intermediate products as referred to in Article 1 of Commission Regulation (EC) No 2007/2006'

(b) the heading of Chapter XI is replaced by the following:

'Requirements for animal by-products for the manufacture of feed including petfood, and of technical products, excluding intermediate products as referred to in Article 1 of Commission Regulation (EC) No 2007/2006'

2. Annex X is amended as follows:

(a) In Chapter 4(C), the heading of the Health certificate: 'For blood products to be used for technical purposes, including pharmaceuticals, in vitro diagnostics and laboratory reagents, but excluding serum of equidae, intended for dispatch to the European Community', is replaced by the following heading:

'For blood products, excluding serum of equidae and intermediate products as referred to in Article 1 of Commission Regulation (EC) No 2007/2006, to be used for technical purposes, intended for dispatch to the European Community.'

(b) In Chapter 8, the heading of the Health certificates: 'For animal by-products for the manufacture of technical products (including pharmaceutical products) ⁽¹⁾, intended for dispatch to the European Community', is replaced by the following heading:

'For animal by-products ⁽¹⁾ to be used for technical purposes, intended for dispatch to the European Community'

⁽¹⁾ Excluding raw blood, raw milk, hides and skins of ungulates and pig bristles (see relevant specific certificates for the import of these products) as well as wool, hair, feathers or parts of feathers. This certificate is not to be used for intermediate products as defined by Regulation (EC) No 2007/2006 (see relevant conditions and model declaration for import of these products).

**COMMISSION REGULATION (EC) No 2008/2006
of 22 December 2006**

**laying down detailed rules for the application in 2007 of the tariff quotas for 'baby beef' products
originating in Croatia, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and
Serbia, Montenegro and Kosovo**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, and in particular the first subparagraph of Article 32(1) thereof,

Whereas:

(1) Article 4(2) of Council Regulation (EC) No 2007/2000 of 18 September 2000 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process, amending Regulation (EC) No 2820/98, and repealing Regulations (EC) No 1763/1999 and (EC) No 6/2000 ⁽²⁾, provides for an annual preferential tariff quota of 11 475 tonnes of 'baby beef', distributed among Bosnia and Herzegovina and Serbia, Montenegro and Kosovo.

(2) The Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part, approved by Council and Commission Decision 2005/40/EC, Euratom ⁽³⁾, and the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, approved by Council and Commission Decision 2004/239/EC, Euratom ⁽⁴⁾, lay down annual preferential tariff quotas of 'baby beef' of 9 400 tonnes and 1 650 tonnes respectively.

(3) Article 2 of Council Regulation (EC) No 2248/2001 of 19 November 2001 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part and for applying the Interim Agreement between the European Community and the Republic of Croatia ⁽⁵⁾ and Article 2 of Council Regulation (EC) No 153/2002 of 21 January 2002 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, and for applying the Interim Agreement between the European Community and the former Yugoslav Republic of Macedonia ⁽⁶⁾ provide that detailed rules for the implementation of concessions on 'baby beef' should be laid down.

(4) For control purposes, Regulation (EC) No 2007/2000 makes imports under the quotas of 'baby beef' for Bosnia and Herzegovina and Serbia, Montenegro and Kosovo, subject to the presentation of a certificate of authenticity attesting that the goods originate from the issuing country and that they correspond exactly to the definition in Annex II to that Regulation. For the sake of harmonisation, imports under the quotas of 'baby beef' originating in Croatia and the former Yugoslav Republic of Macedonia should also be made subject to the presentation of a certificate of authenticity attesting that the goods originate from the issuing country and that they correspond exactly to the definition in Annex III to the Stabilisation and Association Agreement with Croatia or with the former Yugoslav Republic of Macedonia respectively. A model should also be established for the certificates of authenticity and detailed rules laid down for their use.

(5) Kosovo, as defined by United Nations Security Council Resolution 1244 of 10 June 1999, is subject to an international civil administration by the United Nations Mission in Kosovo (UNMIK), and Montenegro have also set up a separate customs service. There should therefore also be a specific certificate of authenticity for goods originating in the customs territories of Montenegro or Kosovo.

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 240, 23.9.2000, p. 1. Regulation as last amended by Regulation (EC) No 1946/2005 (OJ L 312, 29.11.2005, p. 1).

⁽³⁾ OJ L 26, 28.1.2005, p. 1.

⁽⁴⁾ OJ L 84, 20.3.2004, p. 1.

⁽⁵⁾ OJ L 304, 21.11.2001, p. 1. Regulation as amended by Regulation (EC) No 2/2003 (OJ L 1, 4.1.2003, p. 26).

⁽⁶⁾ OJ L 25, 29.1.2002, p. 16. Regulation as amended by Regulation (EC) No 3/2003 (OJ L 1, 4.1.2003, p. 30).

- (6) The quotas concerned should be managed through the use of import licences. To this end, Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽¹⁾ and Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80⁽²⁾, should be applicable subject to this Regulation.
- (7) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences⁽³⁾ applies to import licences for import tariff quota periods starting from 1 January 2007. Regulation (EC) No 1301/2006 lays down in particular detailed provisions on applications for import licences, the status of applicants and the issue of licences. That Regulation limits the period of validity of licences to the last day of the import tariff quota period. The provisions of Regulation (EC) No 1301/2006 should apply to import licences issued pursuant to this Regulation, without prejudice to additional conditions or derogations laid down in this Regulation. It is necessary to align the provisions of this Regulation on Regulation (EC) No 1301/2006 where appropriate.
- (8) In order to ensure proper management of imports of the products concerned, import licences should be issued subject to verification, in particular of entries on certificates of authenticity.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

- (b) 1 500 tonnes of 'baby beef', expressed in carcass weight, originating in Bosnia and Herzegovina;
- (c) 1 650 tonnes of 'baby beef', expressed in carcass weight, originating in the former Yugoslav Republic of Macedonia;
- (d) 9 975 tonnes of 'baby beef', expressed in carcass weight, originating in Serbia, Montenegro and Kosovo.

The quotas referred to in the first subparagraph shall bear the order Nos 09.4503, 09.4504, 09.4505 and 09.4506 respectively.

For the purposes of attributing those quotas, 100 kilograms live weight shall be equivalent to 50 kilograms carcass weight.

2. The customs duty applicable under the quotas referred to in paragraph 1 shall be 20 % of the *ad valorem* duty and 20 % of the specific duty as laid down in the Common Customs Tariff.

3. Importation under the quotas referred to in paragraph 1 shall be reserved for certain live animals and certain meat falling within the following CN codes, referred to in Annex II to Regulation (EC) No 2007/2000, in Annex III to the Stabilisation and Association Agreements concluded with Croatia and in Annex III to the Stabilisation and Association Agreement concluded with the former Yugoslav Republic of Macedonia:

- ex 0102 90 51, ex 0102 90 59, ex 0102 90 71 and ex 0102 90 79,
- ex 0201 10 00 and ex 0201 20 20,
- ex 0201 20 30,
- ex 0201 20 50.

HAS ADOPTED THIS REGULATION:

Article 2

Save as otherwise provided in this Regulation. Regulations (EC) No 1445/95, (EC) No 1291/2000 and Chapters I and III of Regulation (EC) No 1301/2006 shall apply to importing operations under the quotas referred to in Article 1.

Article 3

1. Section 8 of licence applications and licences shall show the country or customs territory of origin and the mention 'yes' shall be marked by a cross. Licences shall carry with them an obligation to import from the country or customs territory indicated.

Section 20 of licence applications and licences shall show one of the entries listed in Annex I.

1. The following tariff quotas are hereby opened for the period from 1 January to 31 December 2007:

- (a) 9 400 tonnes of 'baby beef', expressed in carcass weight, originating in Croatia;

⁽¹⁾ OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 410/2006 (OJ L 71, 10.3.2006, p. 7).

⁽²⁾ OJ L 143, 27.6.1995, p. 35. Regulation as last amended by Regulation (EC) No 1713/2006 (OJ L 321, 21.11.2006, p. 11).

⁽³⁾ OJ L 238, 1.9.2006, p. 13.

2. The original of the certificate of authenticity drawn up in accordance with Article 4 plus a copy thereof shall be presented to the competent authority together with the application for the first import licence relating to the certificate of authenticity.

Certificates of authenticity may be used for the issue of more than one import licence for quantities not exceeding that shown on the certificate. Where more than one licence is issued in respect of a certificate, the competent authority shall endorse the certificate of authenticity to show the quantity attributed.

3. The competent authorities may issue import licences only after they are satisfied that all the information on the certificate of authenticity corresponds to that received each week from the Commission for the imports concerned. The licences shall be issued immediately thereafter.

Article 4

1. All applications for imports licences under the quotas referred to in Article 1 shall be accompanied by a certificate of authenticity issued by the authorities of the exporting country or customs territory listed in Annex II attesting that the goods originate in that country or customs territory and that they correspond to the definition given, as the case may be, in Annex II to Regulation (EC) No 2007/2000, Annex III to the Stabilisation and Association Agreements with Croatia or Annex III to the Stabilisation and Association Agreement with the former Yugoslav Republic of Macedonia.

2. Certificates of authenticity shall be made out in one original and two copies, to be printed and completed in one of the official languages of the Community, in accordance with the relevant model in Annexes III to VIII. For the exporting countries or customs territory concerned. They may also be printed and completed in the official language or one of the official languages of the exporting country or customs territory.

The competent authorities of the Member State in which the import licence application is submitted may require a translation of the certificate to be provided.

3. The original and copies of the certificate of authenticity may be typed or hand-written. In the latter case, they shall be completed in black ink and in block capitals.

The certificate forms shall measure 210 × 297 mm. The paper used shall weigh not less than 40 g/m². The original shall be white, the first copy pink and the second copy yellow.

4. Each certificate shall have its own individual serial number followed by the name of the issuing country or customs territory.

The copies shall bear the same serial number and the same name as the original.

5. Certificates shall be valid only if they are duly endorsed by an issuing authority listed in Annex II.

6. Certificates shall be deemed to have been duly endorsed if they state the date and place of issue and if they bear the stamp of the issuing authority and the signature of the person or persons empowered to sign them.

Article 5

1. The issuing authorities listed in Annex II shall:

(a) be recognised as such by the exporting country or customs territory concerned;

(b) undertake to verify entries on the certificates;

(c) undertake to forward to the Commission at least once a week any information enabling the entries on the certificates of authenticity to be verified, in particular with regard to the number of the certificate, the exporter, the consignee, the country of destination, the product (live animals/meat), the net weight and the date of signature.

2. The list in Annex II shall be revised by the Commission where the requirement referred to in paragraph 1(a) is no longer met, where an issuing authority fails to fulfil one or more of the obligations incumbent on it or where a new issuing authority is designated.

Article 6

Certificates of authenticity and import licences shall be valid for three months from their respective dates of issue.

Article 7

The exporting country or custom territory concerned shall communicate to the Commission specimens of the stamp imprints used by their issuing authorities and the names and signatures of the persons empowered to sign certificates of authenticity. The Commission shall communicate that information to the competent authorities of the Member States.

Article 8

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

It shall apply from 1 January 2007.

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

Done at Brussels, 22 December 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX I

Entries referred to in Article 3(1)

- in *Bulgarian*: 'Baby beef' (Регламент (ЕО) № 2008/2006)
 - in *Spanish*: 'Baby beef' (Reglamento (CE) n° 2008/2006)
 - in *Czech*: 'Baby beef' (Nařízení (ES) č. 2008/2006)
 - in *Danish*: 'Baby beef' (Forordning (EF) nr. 2008/2006)
 - in *German*: 'Baby beef' (Verordnung (EG) Nr. 2008/2006)
 - in *Estonian*: 'Baby beef' (Määrus (EÜ) nr 2008/2006)
 - in *Greek*: 'Baby beef' (Κανονισμός (ΕΚ) αριθ. 2008/2006)
 - in *English*: 'Baby beef' (Regulation (EC) No 2008/2006)
 - in *French*: 'Baby beef' (Règlement (CE) n° 2008/2006)
 - in *Italian*: 'Baby beef' (Regolamento (CE) n. 2008/2006)
 - in *Latvian*: 'Baby beef' (Regula (EK) Nr. 2008/2006)
 - in *Lithuanian*: 'Baby beef' (Reglamentas (EB) Nr. 2008/2006)
 - in *Hungarian*: 'Baby beef' (2008/2006/EK rendelet)
 - in *Maltese*: 'Baby beef' (Regolament (KE) Nru 2008/2006)
 - in *Dutch*: 'Baby beef' (Verordening (EG) nr 2008/2006)
 - in *Polish*: 'Baby beef' (Rozporządzenie (WE) nr 2008/2006)
 - in *Portuguese*: 'Baby beef' (Regulamento (CE) n.º 2008/2006)
 - in *Romanian*: 'Baby beef' (Regulamentul (CE) nr. 2008/2006)
 - in *Slovak*: 'Baby beef' (Nariadenie (ES) č. 2008/2006)
 - in *Slovenian*: 'Baby beef' (Uredba (ES) št. 2008/2006)
 - in *Finnish*: 'Baby beef' (Asetus (EY) N:o 2008/2006)
 - in *Swedish*: 'Baby beef' (Förordning (EG) nr 2008/2006)
-

ANNEX II

Issuing authorities:

- Republic of Croatia: Croatian Livestock Center, Zagreb, Croatia.
 - Bosnia-Herzegovina:
 - The former Yugoslav Republic of Macedonia:
 - Serbia ⁽¹⁾: 'YU Institute for Meat Hygiene and Technology, Kacanskog 13, Belgrade, Yugoslavia.'
 - Montenegro:
 - Serbia/Kosovo:
-

⁽¹⁾ Not including Kosovo as defined by United Nations Security Council Resolution 1244 of 10 June 1999.

ANNEX III

1. Consignor (full name and address)		CERTIFICATE No 0000 ORIGINAL Croatia	
2. Consignee (full name and address)		CERTIFICATE OF AUTHENTICITY for exports to the EC of bovine animals and meat of bovine animals [application of Regulation (EC) No 2008/2006]	
NOTES A. This certificate shall be prepared in one original and two copies. B. The original and its two copies shall be typewritten or completed by hand. In the latter case, they must be completed in black ink and in block capitals.			
3. Marks, numbers, numbers and nature of packages or head of cattle; description of goods	4. Combined Nomenclature code	5. Gross weight (kg)	6. Net weight (kg)
7. Net weight (kg) (in words)			
8. I, the undersigned, acting on behalf of the authorised issuing body (box 9) certify that the goods described above were subjected to health inspection at, in accordance with the attached veterinary certificate of, originate in and come from the Republic of Croatia and correspond exactly to the definition contained in Annex III to the Stabilisation and Association Agreement set out in Decision 2005/40/EC, Euratom (OJ L 26, 28.1.2005, p.1).			
9. Authorised issuing body		Place: Date: (Stamp of issuing body) (signature)	

ANNEX IV

1. Consignor (full name and address)		CERTIFICATE No 0000 ORIGINAL BOSNIA and HERZEGOVINA	
2. Consignee (full name and address)		CERTIFICATE OF AUTHENTICITY for exports to the EC of bovine animals and meat of bovine animals [application of Regulation (EC) No 2008/2006]	
NOTES A. This certificate shall be prepared in one original and two copies. B. The original and its two copies shall be typewritten or completed by hand. In the latter case, they must be completed in black ink and in block capitals.			
3. Marks, numbers, numbers and nature of packages or head of cattle; description of goods	4. Combined Nomenclature code	5. Gross weight (kg)	6. Net weight (kg)
7. Net weight (kg) (in words)			
8. I, the undersigned, acting on behalf of the authorised issuing body (box 9) certify that the goods described above were subjected to health inspection at, in accordance with the attached veterinary certificate of, originate in and come from the Republic of Bosnia and Herzegovina and correspond exactly to the definition contained in Annex II to Council Regulation (EC) No 2007/2000 (OJ L 240, 23.9.2000, p. 1).			
9. Authorised issuing body		Place: Date: (Stamp of issuing body) (signature)	

ANNEX V

1. Consignor (full name and address)		CERTIFICATE No 0000 ORIGINAL THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA	
2. Consignee (full name and address)		CERTIFICATE OF AUTHENTICITY for exports to the EC of bovine animals and meat of bovine animals [application of Regulation (EC) No 2008/2006]	
NOTES A. This certificate shall be prepared in one original and two copies. B. The original and its two copies shall be typewritten or completed by hand. In the latter case, they must be completed in black ink and in block capitals.			
3. Marks, numbers, numbers and nature of packages or head of cattle; description of goods	4. Combined Nomenclature code	5. Gross weight (kg)	6. Net weight (kg)
7. Net weight (kg) (in words)			
8. I, the undersigned, acting on behalf of the authorised issuing body (box 9) certify that the goods described above were subjected to health inspection at, in accordance with the attached veterinary certificate of, originate in and come from the former Yugoslav Republic of Macedonia and correspond exactly to the definition contained in Annex III to the Stabilisation and Association Agreement set out in Decision 2004/239/EC, Euratom (OJ L 84, 20.3.2004, p. 1).			
9. Authorised issuing body		Place: Date: (Stamp of issuing body) (signature)	

ANNEX VI

1. Consignor (full name and address)		CERTIFICATE No 0000 ORIGINAL SERBIA ⁽¹⁾	
2. Consignee (full name and address)		CERTIFICATE OF AUTHENTICITY for exports to the EC of bovine animals and meat of bovine animals [application of Regulation (EC) No 2008/2006]	
NOTES A. This certificate shall be prepared in one original and two copies. B. The original and its two copies shall be typewritten or completed by hand. In the latter case, they must be completed in black ink and in block capitals.			
3. Marks, numbers, numbers and nature of packages or head of cattle; description of goods	4. Combined Nomenclature code	5. Gross weight (kg)	6. Net weight (kg)
7. Net weight (kg) (in words)			
8. I, the undersigned, acting on behalf of the authorised issuing body (box 9) certify that the goods described above were subjected to health inspection at, in accordance with the attached veterinary certificate of, originate in and come from Serbia and correspond exactly to the definition contained in Annex II to Council Regulation (EC) No 2007/2000 (OJ L 240, 23.9.2000, p. 1).			
9. Authorised issuing body		Place: Date: (Stamp of issuing body) (signature)	

(1) Not including Kosovo as defined by United Nations Security Council Resolution 1244 of 10 June 1999.

ANNEX VII

1. Consignor (full name and address)		CERTIFICATE No 0000 ORIGINAL MONTENEGRO	
2. Consignee (full name and address)		CERTIFICATE OF AUTHENTICITY for exports to the EC of bovine animals and meat of bovine animals [application of Regulation (EC) No 2008/2006]	
NOTES A. This certificate shall be prepared in one original and two copies. B. The original and its two copies shall be typewritten or completed by hand. In the latter case, they must be completed in black ink and in block capitals.			
3. Marks, numbers, numbers and nature of packages or head of cattle; description of goods	4. Combined Nomenclature code	5. Gross weight (kg)	6. Net weight (kg)
7. Net weight (kg) (in words)			
8. I, the undersigned, acting on behalf of the authorised issuing body (box 9) certify that the goods described above were subjected to health inspection at, in accordance with the attached veterinary certificate of, originate in and come from Montenegro and correspond exactly to the definition contained in Annex II to Council Regulation (EC) No 2007/2000 (OJ L 240, 23.9.2000, p. 1).			
9. Authorised issuing body		Place: Date: (Stamp of issuing body) (signature)	

ANNEX VIII

1. Consignor (full name and address)		CERTIFICATE No 0000 ORIGINAL International civil administration of the United Nations Mission in Kosovo (UNMIK)	
2. Consignee (full name and address)		CERTIFICATE OF AUTHENTICITY for exports to the EC of bovine animals and meat of bovine animals [application of Regulation (EC) No 2008/2006]	
NOTES A. This certificate shall be prepared in one original and two copies. B. The original and its two copies shall be typewritten or completed by hand. In the latter case, they must be completed in black ink and in block capitals.			
3. Marks, numbers, numbers and nature of packages or head of cattle; description of goods	4. Combined Nomenclature code	5. Gross weight (kg)	6. Net weight (kg)
7. Net weight (kg) (in words)			
8. I, the undersigned, acting on behalf of the authorised issuing body (box 9) certify that the goods described above were subjected to health inspection at, in accordance with the attached veterinary certificate of, originate in and come from Serbia /Kosovo and correspond exactly to the definition contained in Annex II to Council Regulation (EC) No 2007/2000 (OJ L 240, 23.9.2000, p. 1).			
9. Authorised issuing body		Place: Date: (Stamp of issuing body) (signature)	

COMMISSION REGULATION (EC) No 2009/2006
of 27 December 2006
fixing the export refunds on milk and milk products

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 Article 31(3) thereof,

Whereas:

(1) Article 31(1) of Regulation (EC) No 1255/1999 provides that the difference between prices on the world market for the products listed in Article 1 of that Regulation and prices for those products on the Community market may be covered by an export refund.

(2) Given the present situation on the market in milk and milk products, export refunds should therefore be fixed in accordance with the rules and certain criteria provided for in Article 31 of Regulation (EC) No 1255/1999.

(3) The second subparagraph of Article 31(3) of Regulation (EC) No 1255/1999 provides that the world market

situation or the specific requirements of certain markets may make it necessary to vary the refund according to destination.

(4) In accordance with the Memorandum of Understanding between the European Community and the Dominican Republic on import protection for milk powder in the Dominican Republic ⁽²⁾ approved by Council Decision 98/486/EC ⁽³⁾, a certain amount of Community milk products exported to the Dominican Republic can benefit from reduced customs duties. For this reason, export refunds granted to products exported under this scheme should be reduced by a certain percentage.

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

HAS ADOPTED THIS REGULATION:

Article 1

Export refunds as provided for in Article 31 of Regulation (EC) No 1255/1999 shall be granted on the products and for the amounts set out in the Annex to this Regulation subject to the conditions provided for in Article 1(4) of Commission Regulation (EC) No 174/1999 ⁽⁴⁾.

Article 2

This Regulation shall enter into force on 1 January 2007.

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

Done at Brussels, 27 December 2006.

For the Commission

Jean-Luc 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 218, 6.8.1998, p. 46.

⁽³⁾ OJ L 218, 6.8.1998, p. 45.

⁽⁴⁾ OJ L 20, 27.1.1999, p. 8.

ANNEX

Export refunds on milk and milk products applicable from 1 January 2007

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
0401 30 31 9100	L02	EUR/100 kg	12,69	0402 21 99 9400	L02	EUR/100 kg	17,65
	L20	EUR/100 kg	18,14		L20	EUR/100 kg	22,67
0401 30 31 9400	L02	EUR/100 kg	19,82	0402 21 99 9500	L02	EUR/100 kg	17,97
	L20	EUR/100 kg	28,33		L20	EUR/100 kg	23,07
0401 30 31 9700	L02	EUR/100 kg	21,88	0402 21 99 9600	L02	EUR/100 kg	19,25
	L20	EUR/100 kg	31,25		L20	EUR/100 kg	24,71
0401 30 39 9100	L02	EUR/100 kg	12,69	0402 21 99 9700	L02	EUR/100 kg	19,96
	L20	EUR/100 kg	18,14		L20	EUR/100 kg	25,63
0401 30 39 9400	L02	EUR/100 kg	19,82	0402 29 15 9200	L02	EUR/100 kg	—
	L20	EUR/100 kg	28,33		L20	EUR/100 kg	—
0401 30 39 9700	L02	EUR/100 kg	21,88	0402 29 15 9300	L02	EUR/100 kg	14,71
	L20	EUR/100 kg	31,25		L20	EUR/100 kg	18,87
0401 30 91 9100	L02	EUR/100 kg	24,93	0402 29 15 9500	L02	EUR/100 kg	15,35
	L20	EUR/100 kg	35,62		L20	EUR/100 kg	19,71
0401 30 99 9100	L02	EUR/100 kg	24,93	0402 29 19 9300	L02	EUR/100 kg	14,71
	L20	EUR/100 kg	35,62		L20	EUR/100 kg	18,87
0401 30 99 9500	L02	EUR/100 kg	36,64	0402 29 19 9500	L02	EUR/100 kg	15,35
	L20	EUR/100 kg	52,34		L20	EUR/100 kg	19,71
0402 10 11 9000	L02	EUR/100 kg	—	0402 29 19 9900	L02	EUR/100 kg	16,35
	L20 ⁽¹⁾	EUR/100 kg	—		L20	EUR/100 kg	21,00
0402 10 19 9000	L02	EUR/100 kg	—	0402 29 99 9100	L02	EUR/100 kg	16,46
	L20 ⁽¹⁾	EUR/100 kg	—		L20	EUR/100 kg	21,12
0402 10 99 9000	L02	EUR/100 kg	—	0402 29 99 9500	L02	EUR/100 kg	17,65
	L20	EUR/100 kg	—		L20	EUR/100 kg	22,67
0402 21 11 9200	L02	EUR/100 kg	—	0402 91 11 9370	L02	EUR/100 kg	1,67
	L20	EUR/100 kg	—		L20	EUR/100 kg	2,38
0402 21 11 9300	L02	EUR/100 kg	14,71	0402 91 19 9370	L02	EUR/100 kg	1,67
	L20	EUR/100 kg	18,87		L20	EUR/100 kg	2,38
0402 21 11 9500	L02	EUR/100 kg	15,35	0402 91 31 9300	L02	EUR/100 kg	1,97
	L20	EUR/100 kg	19,71		L20	EUR/100 kg	2,82
0402 21 11 9900	L02	EUR/100 kg	16,35	0402 91 39 9300	L02	EUR/100 kg	1,97
	L20 ⁽¹⁾	EUR/100 kg	21,00		L20	EUR/100 kg	2,82
0402 21 17 9000	L02	EUR/100 kg	—	0402 91 99 9000	L02	EUR/100 kg	15,31
	L20	EUR/100 kg	—		L20	EUR/100 kg	21,89
0402 21 19 9300	L02	EUR/100 kg	14,71	0402 99 11 9350	L02	EUR/100 kg	4,26
	L20	EUR/100 kg	18,87		L20	EUR/100 kg	6,09
0402 21 19 9500	L02	EUR/100 kg	15,35	0402 99 19 9350	L02	EUR/100 kg	4,26
	L20	EUR/100 kg	19,71		L20	EUR/100 kg	6,09
0402 21 19 9900	L02	EUR/100 kg	16,35	0402 99 31 9300	L02	EUR/100 kg	9,16
	L20 ⁽¹⁾	EUR/100 kg	21,00		L20	EUR/100 kg	13,10
0402 21 91 9100	L02	EUR/100 kg	16,46	0403 90 11 9000	L02	EUR/100 kg	—
	L20	EUR/100 kg	21,12		L20	EUR/100 kg	—
0402 21 91 9200	L02	EUR/100 kg	16,56	0403 90 13 9200	L02	EUR/100 kg	—
	L20 ⁽¹⁾	EUR/100 kg	21,26		L20	EUR/100 kg	—
0402 21 91 9350	L02	EUR/100 kg	16,73	0403 90 13 9300	L02	EUR/100 kg	14,58
	L20	EUR/100 kg	21,47		L20	EUR/100 kg	18,71
0402 21 99 9100	L02	EUR/100 kg	16,46	0403 90 13 9500	L02	EUR/100 kg	15,21
	L20	EUR/100 kg	21,12		L20	EUR/100 kg	19,53
0402 21 99 9200	L02	EUR/100 kg	16,56	0403 90 13 9900	L02	EUR/100 kg	16,22
	L20 ⁽¹⁾	EUR/100 kg	21,26		L20	EUR/100 kg	20,81
0402 21 99 9300	L02	EUR/100 kg	16,73	0403 90 33 9400	L02	EUR/100 kg	14,58
	L20	EUR/100 kg	21,47		L20	EUR/100 kg	18,71

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
0403 90 59 9310	L02	EUR/100 kg	12,69	0405 90 90 9000	L02	EUR/100 kg	71,81
	L20	EUR/100 kg	18,14		L20	EUR/100 kg	96,82
0403 90 59 9340	L02	EUR/100 kg	18,58	0406 10 20 9640	L04	EUR/100 kg	22,65
	L20	EUR/100 kg	26,53		L40	EUR/100 kg	28,32
0403 90 59 9370	L02	EUR/100 kg	18,58	0406 10 20 9650	L04	EUR/100 kg	18,89
	L20	EUR/100 kg	26,53		L40	EUR/100 kg	23,60
0404 90 21 9120	L02	EUR/100 kg	—	0406 10 20 9830	L04	EUR/100 kg	7,01
	L20	EUR/100 kg	—		L40	EUR/100 kg	8,75
0404 90 21 9160	L02	EUR/100 kg	—	0406 10 20 9850	L04	EUR/100 kg	8,49
	L20	EUR/100 kg	—		L40	EUR/100 kg	10,61
0404 90 23 9120	L02	EUR/100 kg	—	0406 20 90 9913	L04	EUR/100 kg	16,82
	L20	EUR/100 kg	—		L40	EUR/100 kg	21,01
0404 90 23 9130	L02	EUR/100 kg	14,71	0406 20 90 9915	L04	EUR/100 kg	22,83
	L20	EUR/100 kg	18,87		L40	EUR/100 kg	28,54
0404 90 23 9140	L02	EUR/100 kg	15,35	0406 20 90 9917	L04	EUR/100 kg	24,26
	L20	EUR/100 kg	19,71		L40	EUR/100 kg	30,32
0404 90 23 9150	L02	EUR/100 kg	16,35	0406 20 90 9919	L04	EUR/100 kg	27,10
	L20	EUR/100 kg	21,00		L40	EUR/100 kg	33,89
0404 90 81 9100	L02	EUR/100 kg	—	0406 30 31 9730	L04	EUR/100 kg	3,02
	L20	EUR/100 kg	—		L40	EUR/100 kg	7,09
0404 90 83 9110	L02	EUR/100 kg	—	0406 30 31 9930	L04	EUR/100 kg	3,02
	L20	EUR/100 kg	—		L40	EUR/100 kg	7,09
0404 90 83 9130	L02	EUR/100 kg	14,71	0406 30 31 9950	L04	EUR/100 kg	4,39
	L20	EUR/100 kg	18,87		L40	EUR/100 kg	10,31
0404 90 83 9150	L02	EUR/100 kg	15,35	0406 30 39 9500	L04	EUR/100 kg	3,02
	L20	EUR/100 kg	19,71		L40	EUR/100 kg	7,09
0404 90 83 9170	L02	EUR/100 kg	16,35	0406 30 39 9700	L04	EUR/100 kg	4,39
	L20	EUR/100 kg	21,00		L40	EUR/100 kg	10,31
0405 10 11 9500	L02	EUR/100 kg	70,19	0406 30 39 9930	L04	EUR/100 kg	4,39
	L20	EUR/100 kg	94,64		L40	EUR/100 kg	10,31
0405 10 11 9700	L02	EUR/100 kg	71,94	0406 30 39 9950	L04	EUR/100 kg	4,98
	L20	EUR/100 kg	97,00		L40	EUR/100 kg	11,66
0405 10 19 9500	L02	EUR/100 kg	70,19	0406 40 50 9000	L04	EUR/100 kg	26,64
	L20	EUR/100 kg	94,64		L40	EUR/100 kg	33,29
0405 10 19 9700	L02	EUR/100 kg	71,94	0406 40 90 9000	L04	EUR/100 kg	27,36
	L20	EUR/100 kg	97,00		L40	EUR/100 kg	34,20
0405 10 30 9100	L02	EUR/100 kg	70,19	0406 90 13 9000	L04	EUR/100 kg	30,32
	L20	EUR/100 kg	94,64		L40	EUR/100 kg	43,40
0405 10 30 9300	L02	EUR/100 kg	71,94	0406 90 15 9100	L04	EUR/100 kg	31,35
	L20	EUR/100 kg	97,00		L40	EUR/100 kg	44,86
0405 10 30 9700	L02	EUR/100 kg	71,94	0406 90 17 9100	L04	EUR/100 kg	31,35
	L20	EUR/100 kg	97,00		L40	EUR/100 kg	44,86
0405 10 50 9500	L02	EUR/100 kg	70,19	0406 90 21 9900	L04	EUR/100 kg	30,47
	L20	EUR/100 kg	94,64		L40	EUR/100 kg	43,50
0405 10 50 9700	L02	EUR/100 kg	71,94	0406 90 23 9900	L04	EUR/100 kg	27,31
	L20	EUR/100 kg	97,00		L40	EUR/100 kg	39,27
0405 10 90 9000	L02	EUR/100 kg	74,58	0406 90 25 9900	L04	EUR/100 kg	26,79
	L20	EUR/100 kg	100,56		L40	EUR/100 kg	38,34
0405 20 90 9500	L02	EUR/100 kg	65,81	0406 90 27 9900	L04	EUR/100 kg	24,26
	L20	EUR/100 kg	88,73		L40	EUR/100 kg	34,73
0405 20 90 9700	L02	EUR/100 kg	68,43	0406 90 32 9119	L04	EUR/100 kg	22,43
	L20	EUR/100 kg	92,26		L40	EUR/100 kg	32,15
0405 90 10 9000	L02	EUR/100 kg	89,79	0406 90 35 9190	L04	EUR/100 kg	31,94
	L20	EUR/100 kg	121,06		L40	EUR/100 kg	45,94
				0406 90 35 9990	L04	EUR/100 kg	31,94
					L40	EUR/100 kg	45,94

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
0406 90 37 9000	L04	EUR/100 kg	30,32	0406 90 85 9970	L04	EUR/100 kg	28,47
	L40	EUR/100 kg	43,40		L40	EUR/100 kg	40,93
0406 90 61 9000	L04	EUR/100 kg	34,52	0406 90 86 9200	L04	EUR/100 kg	27,52
	L40	EUR/100 kg	49,96		L40	EUR/100 kg	40,79
0406 90 63 9100	L04	EUR/100 kg	34,01	0406 90 86 9400	L04	EUR/100 kg	29,48
	L40	EUR/100 kg	49,05		L40	EUR/100 kg	43,11
0406 90 63 9900	L04	EUR/100 kg	32,69	0406 90 86 9900	L04	EUR/100 kg	31,02
	L40	EUR/100 kg	47,37		L40	EUR/100 kg	44,67
0406 90 69 9910	L04	EUR/100 kg	33,17	0406 90 87 9300	L04	EUR/100 kg	25,62
	L40	EUR/100 kg	48,07		L40	EUR/100 kg	37,86
0406 90 73 9900	L04	EUR/100 kg	27,91	0406 90 87 9400	L04	EUR/100 kg	26,16
	L40	EUR/100 kg	39,99		L40	EUR/100 kg	38,24
0406 90 75 9900	L04	EUR/100 kg	28,47	0406 90 87 9951	L04	EUR/100 kg	27,80
	L40	EUR/100 kg	40,93		L40	EUR/100 kg	39,79
0406 90 76 9300	L04	EUR/100 kg	25,27	0406 90 87 9971	L04	EUR/100 kg	27,80
	L40	EUR/100 kg	36,17		L40	EUR/100 kg	39,79
0406 90 76 9400	L04	EUR/100 kg	28,30	0406 90 87 9973	L04	EUR/100 kg	27,29
	L40	EUR/100 kg	40,52		L40	EUR/100 kg	39,07
0406 90 76 9500	L04	EUR/100 kg	26,21	0406 90 87 9974	L04	EUR/100 kg	29,24
	L40	EUR/100 kg	37,20		L40	EUR/100 kg	41,66
0406 90 78 9100	L04	EUR/100 kg	27,72	0406 90 87 9975	L04	EUR/100 kg	28,99
	L40	EUR/100 kg	40,50		L40	EUR/100 kg	40,97
0406 90 78 9300	L04	EUR/100 kg	27,46	0406 90 87 9979	L04	EUR/100 kg	27,31
	L40	EUR/100 kg	39,22		L40	EUR/100 kg	39,27
0406 90 79 9900	L04	EUR/100 kg	22,67	0406 90 88 9300	L04	EUR/100 kg	22,63
	L40	EUR/100 kg	32,60		L40	EUR/100 kg	33,32
0406 90 81 9900	L04	EUR/100 kg	28,30	0406 90 88 9500	L04	EUR/100 kg	23,33
	L40	EUR/100 kg	40,52		L40	EUR/100 kg	33,34
0406 90 85 9930	L04	EUR/100 kg	31,02				
	L40	EUR/100 kg	44,67				

(¹) As for the relevant products intended for exports to Dominican Republic under the quota 2006/2007 referred to in the Decision 98/486/EC, and complying with the conditions laid down in Article 20a of Regulation (EC) No 174/1999, the following rates should apply:

- (a) products falling within CN codes 0402 10 11 9000 and 0402 10 19 9000 0,00 EUR/100 kg
- (b) products falling within CN codes 0402 21 11 9900, 0402 21 19 9900, 0402 21 91 9200 and 0402 21 99 9200 28,00 EUR/100 kg

The destinations are defined as follows:

L02: Andorra and Gibraltar.

L20: All destinations except L02, Ceuta, Melilla, Holy See (Vatican City State), the United States of America and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.

L04: Albania, Bosnia and Herzegovina, Kosovo, Serbia, Montenegro and the former Yugoslav Republic of Macedonia.

L40: All destinations except L02, L04, Ceuta, Melilla, Iceland, Liechtenstein, Norway, Switzerland, Holy See (Vatican City State), the United States of America, Croatia, Turkey, Australia, Canada, New Zealand and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.

COMMISSION REGULATION (EC) No 2010/2006**of 27 December 2006****determining the quantity of certain products in the milk and milk products sector available for the first half of 2007 under quotas opened by the Community on the basis of an import licence alone**

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⁾,

Having regard to Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas ⁽²⁾, and in particular Article 16(2) thereof,

Whereas:

When import licences were allocated for the second half of 2006 for certain quotas referred to in Regulation (EC) No 2535/2001, applications for licences covered quantities less

than those available for the products concerned. As a result, the quantity available for each quota for the period 1 January to 30 June 2007 should be fixed, taking account of the unallocated quantities resulting from Commission Regulation (EC) No 1130/2006 ⁽³⁾ determining the extent to which the applications for import licences submitted in July 2006 for certain dairy products under certain tariff quotas opened by Regulation (EC) No 2535/2001 can be accepted,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities available for the period 1 January to 30 June 2007 for the second half of the year of importation of certain quotas referred to in Regulation (EC) No 2535/2001 shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 28 December 2006.

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

Done at Brussels, 27 December 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

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

⁽²⁾ OJ L 341, 22.12.2001, p. 29. Regulation as last amended by Regulation (EC) No 1984/2006 (OJ L 387, 29.12.2006, p. 1).

⁽³⁾ OJ L 201, 25.7.2006, p. 10.

ANNEX I.A

Quota number	Quantity (t)
09.4590	52 046,5
09.4591	5 360,0
09.4592	18 438,0
09.4593	5 260,0
09.4594	14 233,5
09.4595	7 502,5
09.4596	17 033,6
09.4599	5 680,0

ANNEX I.F

Products originating from Switzerland

Quota number	Quantity (t)
09.4155	1 600,0
09.4156	5 844,4

ANNEX I.H

Products originating in Norway

Quota number	Quantity (t)
09.4179	2 000,0

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 21 December 2006

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

(2006/1008/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

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

Article 1

The persons, groups and entities listed in the Annex shall be added to the list of persons, groups and entities to which Regulation (EC) No 2580/2001 applies.

Whereas:

Article 2

This Decision shall take effect on the day of its publication.

- (1) On 29 May 2006, the Council adopted Decision 2006/379/EC implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2005/930/EC ⁽²⁾, and establishing the list of persons and entities to which that Regulation applies.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 21 December 2006.

- (2) The Council has determined that certain other persons, groups and entities fulfil the conditions laid down in Article 2(3) of that Regulation and should therefore be added to that list,

For the Council
The President
J. KORKEAOJA

⁽¹⁾ OJ L 344, 28.12.2001, p. 70. Regulation as last amended by Commission Regulation (EC) No 1461/2006 (OJ L 272, 3.10.2006, p. 11).

⁽²⁾ OJ L 144, 31.5.2006, p. 21.

ANNEX

The Council has determined that the persons, groups and entities listed below are involved in terrorist acts within the meaning of Article 1(2) and (3) of Council Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism⁽¹⁾, that a decision has been taken in respect of them by a competent national authority within the meaning of Article 1(4) of that Common Position, and that they should therefore be included in the list of persons, groups and entities to which Regulation (EC) 2580/2001 applies.

I. PERSONS

1. AKHNIKH, Ismail (a.k.a. SUHAIB; a.k.a. SOHAIB), born 22.10.1982 in Amsterdam (The Netherlands), passport (The Netherlands) No. NB0322935

(Member of the 'Hofstadgroep')

2. AOURAGHE, Zine Labidine (a.k.a. Halifi Laarbi MOHAMED; a.k.a. Abed; a.k.a. Abid; a.k.a. Abu ISMAIL), born 18.7.1978 in Nador (Morocco), passport (Spain) No. ESPP278036

(Member of the 'Hofstadgroep')

3. BOUGHABA, Mohamed Fahmi (a.k.a. Mohammed Fahmi BOURABA; a.k.a. Mohammed Fahmi BURADA; a.k.a. Abu MOSAB), born 6.12.1981 in Al Hoceima (Morocco)

(Member of the 'Hofstadgroep')

4. BOUYERI, Mohammed (a.k.a. Abu ZUBAIR; a.k.a. SOBIAR; a.k.a. Abu ZOUBAIR), born 8.3.1978 in Amsterdam (The Netherlands)

(Member of the 'Hofstadgroep')

5. EL FATMI, Nouredine (a.k.a. Nouriddin EL FATMI; a.k.a. Nouriddine EL FATMI, a.k.a. Nouredine EL FATMI, a.k.a. Abu AL KA'E KA'E; a.k.a. Abu QAE QAE; a.k.a. FOUAD; a.k.a. FZAD; a.k.a. Nabil EL FATMI; a.k.a. Ben MOHAMMED; a.k.a. Ben Mohand BEN LARBI; a.k.a. Ben Driss Muhand IBN LARBI; a.k.a. Abu TAHAR; a.k.a. EGGIE), born 15.8.1982 in Midar (Morocco), passport (Morocco) No. N829139

(Member of the 'Hofstadgroep')

6. EL MORABIT, Mohamed, born 24.1.1981 in Al Hoceima (Morocco), passport (Morocco) No. K789742

(Member of the 'Hofstadgroep')

7. ETTOUMI, Youssef (a.k.a. Youssef TOUMI), born 20.10.1977 in Amsterdam (The Netherlands), ID-card (The Netherlands) No. LNB4576246

(Member of the 'Hofstadgroep')

8. HAMDI, Ahmed (a.k.a. Abu IBRAHIM), born 5.9.1978 in Beni Said (Morocco), passport (Morocco) No. K728658

(Member of the 'Hofstadgroep')

9. WALTERS, Jason Theodore James (a.k.a. Abdullah; a.k.a. David), born 6.3.1985 in Amersfoort (The Netherlands), passport (The Netherlands) No. NE8146378

(Member of the 'Hofstadgroep')

II. GROUPS AND ENTITIES

1. Hofstadgroep

2. TAK — Teyrbazen Azadiya Kurdistan, a.k.a. Kurdistan Freedom Falcons, Kurdistan Freedom Hawks

⁽¹⁾ OJ L 344, 28.12.2001, p. 93.

COMMISSION

COMMISSION DECISION

of 22 December 2006

concerning the non-inclusion of dimethenamid in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance

(notified under document number C(2006) 6895)

(Text with EEA relevance)

(2006/1009/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

- (1) Article 8(2) of Directive 91/414/EEC provides that a Member State may, during a period of 12 years following the notification of that Directive, authorise the placing on the market of plant protection products containing active substances not listed in Annex I of that Directive that are already on the market two years after the date of notification, while those substances are gradually being examined within the framework of a programme of work.
- (2) Commission Regulations (EC) No 451/2000 ⁽²⁾ and (EC) No 703/2001 ⁽³⁾ lay down the detailed rules for the implementation of the second stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes dimethenamid.
- (3) For dimethenamid the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 451/2000 and (EC) No 703/2001 for a range of uses proposed by the notifiers. Moreover, those regulations designate the Rapporteur Member States which have to submit the relevant assessment reports and recommendations to the European Food Safety Authority (EFSA) in accordance with Article 8(1) of Regulation (EC) No 451/2000. For

dimethenamid the Rapporteur Member State was Germany and all relevant information was submitted on 16 October 2003.

- (4) The assessment report has been peer reviewed by the Member States and the EFSA and presented to the Commission on 15 December 2005 in the format of the EFSA Conclusion regarding the peer review of the pesticide risk assessment of the active substance dimethenamid ⁽⁴⁾. This report has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 23 May 2006 in the format of the Commission review report for dimethenamid.
- (5) During the evaluation of this active substance, a number of concerns have been identified. This was in particular the case concerning the environmental fate and behaviour of this active substance which could result in groundwater contamination due to the formation of soil degradation unidentified compounds with possible annual average leachate concentrations higher than 0,1 µg/l. Moreover, the consumer risk assessment could not be finalised due to lack of data on the above mentioned breakdown products.
- (6) The Commission invited the notifier to submit its comments on the results of the peer review and on its intention or not to further support the substance. The notifier submitted its comments which have been carefully examined. However, despite the arguments advanced, the above concerns remained unsolved, and assessments made on the basis of the information submitted and evaluated during the EFSA expert meetings have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing dimethenamid satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2006/136/EC (OJ L 349, 12.12.2006, p. 42).

⁽²⁾ OJ L 55, 29.2.2000, p. 25. Regulation as last amended by Regulation (EC) No 1044/2003 (OJ L 151, 19.6.2003, p. 32).

⁽³⁾ OJ L 98, 7.4.2001, p. 6.

⁽⁴⁾ EFSA Scientific Report (2005) 53, 1-73, Conclusion regarding the peer review of pesticide risk assessment of dimethenamid.

(7) Dimethenamid should therefore not be included in Annex I to Directive 91/414/EEC.

HAS ADOPTED THIS DECISION:

Article 1

(8) Measures should be taken to ensure that existing authorisations for plant protection products containing dimethenamid are withdrawn within a prescribed period and are not renewed and that no new authorisations for such products are granted.

Dimethenamid shall not be included as an active substance in Annex I to Directive 91/414/EEC.

Article 2

Member States shall ensure that:

(9) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant protection products containing dimethenamid allowed by Member States, should be limited to a period no longer than 12 months to allow existing stocks to be used in no more than one further growing season.

(a) Authorisations for plant protection products containing dimethenamid are withdrawn by 22 June 2007;

(b) From 28 December 2006 no authorisations for plant protection products containing dimethenamid are granted or renewed under the derogation provided for in Article 8(2) of Directive 91/414/EEC.

Article 3

(10) This Decision does not prejudice any action the Commission may undertake at a later stage for this active substance within the framework of Council Directive 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant protection products containing certain active substances ⁽¹⁾.

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and shall expire not later than 22 June 2008.

Article 4

(11) This Decision does not prejudice the submission of an application for dimethenamid according to the provisions of Article 6(2) of Directive 91/414/EEC in view of a possible inclusion in its Annex I.

This Decision is addressed to the Member States.

Done at Brussels, 22 December 2006.

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

For the Commission
Markos KYPRIANOU
Member of the Commission

⁽¹⁾ OJ L 33, 8.2.1979, p. 36. Directive as last amended by Regulation (EC) No 850/2004 of the European Parliament and of the Council (OJ L 158, 30.4.2004, p. 7, corrected by OJ L 229, 29.6.2004, p. 5).

COMMISSION DECISION

of 22 December 2006

concerning the non-inclusion of phosalone in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance

*(notified under document number C(2006) 6897)***(Text with EEA relevance)**

(2006/1010/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

- (1) Article 8(2) of Directive 91/414/EEC provides that a Member State may, during a period of 12 years following the notification of that Directive, authorise the placing on the market of plant protection products containing active substances not listed in Annex I of that Directive that are already on the market two years after the date of notification, while those substances are gradually being examined within the framework of a programme of work.
- (2) Commission Regulations (EC) No 451/2000 ⁽²⁾ and (EC) No 703/2001 ⁽³⁾ lay down the detailed rules for the implementation of the second stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes phosalone.
- (3) For phosalone the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 451/2000 and (EC) No 703/2001 for a range of uses proposed by the notifiers. Moreover, those Regulations designate the Rapporteur Member States which have to submit the

relevant assessment reports and recommendations to the European Food Safety Authority (EFSA) in accordance with Article 8(1) of Regulation (EC) No 451/2000. For phosalone the Rapporteur Member State was Austria and all relevant information was submitted on 7 May 2004.

- (4) The assessment report has been peer reviewed by the Member States and the EFSA and presented to the Commission on 13 January 2006 in the format of the EFSA Conclusion regarding the peer review of the pesticide risk assessment of the active substance phosalone ⁽⁴⁾. This report has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 14 July 2006 in the format of the Commission review report for phosalone.
- (5) During the evaluation of this active substance, a number of concerns have been identified. This was in particular the case concerning the risk for vulnerable groups of consumers, as estimated exposures to phosalone have not been demonstrated to be acceptable. Moreover, some of its metabolites and impurities need further toxicological characterisation and additional concerns have been identified concerning the risk for birds, mammals, aquatic organisms, bees and non-target arthropods.
- (6) The Commission invited the notifier to submit its comments on the results of the peer review and on its intention or not to further support the substance. The notifier submitted its comments which have been carefully examined. However, despite the arguments advanced, the above concerns remained unsolved, and assessments made on the basis of the information submitted and evaluated during the EFSA expert meetings have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing phosalone satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2006/136/EC (OJ L 349, 12.12.2006, p. 42).

⁽²⁾ OJ L 55, 29.2.2000, p. 25. Regulation as last amended by Regulation (EC) No 1044/2003 (OJ L 151, 19.6.2003, p. 32).

⁽³⁾ OJ L 98, 7.4.2001, p. 6.

⁽⁴⁾ EFSA Scientific Report (2006) 60, 1-66, Conclusion regarding the peer review of pesticide risk assessment of phosalone.

(7) Phosalone should therefore not be included in Annex I to Directive 91/414/EEC.

HAS ADOPTED THIS DECISION:

Article 1

(8) Measures should be taken to ensure that existing authorisations for plant protection products containing phosalone are withdrawn within a prescribed period and are not renewed and that no new authorisations for such products are granted.

Phosalone shall not be included as an active substance in Annex I to Directive 91/414/EEC.

Article 2

Member States shall ensure that:

(9) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant protection products containing phosalone allowed by Member States, should be limited to a period no longer than 12 months to allow existing stocks to be used in no more than one further growing season.

(a) authorisations for plant protection products containing phosalone are withdrawn by 22 June 2007;

(b) from 28 December 2006 no authorisations for plant protection products containing phosalone are granted or renewed under the derogation provided for in Article 8(2) of directive 91/414/EEC.

Article 3

(10) This Decision does not prejudice any action the Commission may undertake at a later stage for this active substance within the framework of Council Directive 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant protection products containing certain active substances ⁽¹⁾.

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and shall expire not later than 22 June 2008.

Article 4

(11) This Decision does not prejudice the submission of an application for phosalone according to the provisions of Article 6(2) of Directive 91/414/EEC in view of a possible inclusion in its Annex I.

This Decision is addressed to the Member States.

Done at Brussels, 22 December 2006.

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

For the Commission
Markos KYPRIANOU
Member of the Commission

⁽¹⁾ OJ L 33, 8.2.1979, p. 36. Directive as last amended by Regulation (EC) No 850/2004 of the European Parliament and of the Council (OJ L 158, 30.4.2004, p. 7, corrected by OJ L 229, 29.6.2004, p. 5).

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

COUNCIL COMMON POSITION 2006/1011/CFSP
of 21 December 2006
implementing Common Position 2001/931/CFSP on the application of specific measures to combat terrorism

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) On 27 December 2001, the Council adopted Common Position 2001/931/CFSP on the application of specific measures to combat terrorism ⁽¹⁾.
- (2) On 29 May 2006, the Council adopted Common Position 2006/380/CFSP updating Common Position 2001/931/CFSP ⁽²⁾ and the list of persons, groups and entities to which that Common Position applies.
- (3) The Council has determined that certain additional persons, groups and entities are involved in terrorists acts within the meaning of Common Position 2001/931/CFSP and that they should therefore be added to that list, in accordance with the criteria laid down in Article 1(4) of Common Position 2001/931/CFSP,

HAS ADOPTED THIS COMMON POSITION:

Article 1

The persons, groups and entities listed in the Annex shall be added to the list of persons, groups and entities to which Common Position 2001/931/CFSP applies.

Article 2

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

Article 3

This Common Position shall be published in the *Official Journal of the European Union*.

Done at Brussels, 21 December 2006.

For the Council
The President
J. KORKEAOJA

⁽¹⁾ OJ L 344, 28.12.2001, p. 93.

⁽²⁾ OJ L 144, 31.5.2006, p. 25.

ANNEX

Persons, groups and entities to be added to the list annexed to Common Position 2001/931/CFSP**I. PERSONS**

1. AKHNIKH, Ismail (a.k.a. SUHAIB; a.k.a. SOHAIB), born 22.10.1982 in Amsterdam (The Netherlands), passport (The Netherlands) No. NB0322935

(Member of the 'Hofstadgroep')

2. AOURAGHE, Zine Labidine (a.k.a. Halifi Laarbi MOHAMED; a.k.a. Abed; a.k.a. Abid; a.k.a. Abu ISMAIL), born 18.7.1978 in Nador (Morocco), passport (Spain) No. ESPP278036

(Member of the 'Hofstadgroep')

3. BOUGHABA, Mohamed Fahmi (a.k.a. Mohammed Fahmi BOURABA; a.k.a. Mohammed Fahmi BURADA; a.k.a. Abu MOSAB), born 6.12.1981 in Al Hoceima (Morocco)

(Member of the 'Hofstadgroep')

4. BOUYERI, Mohammed (a.k.a. Abu ZUBAIR; a.k.a. SOBIAR; a.k.a. Abu ZOUBAIR), born 8.3.1978 in Amsterdam (The Netherlands)

(Member of the 'Hofstadgroep')

5. EL FATMI, Nouredine (a.k.a. Nouriddin EL FATMI; a.k.a. Nouriddine EL FATMI, a.k.a. Noureddine EL FATMI, a.k.a. Abu AL KA'E KA'E; a.k.a. Abu QAE QAE; a.k.a. FOUAD; a.k.a. FZAD; a.k.a. Nabil EL FATMI; a.k.a. Ben MOHAMMED; a.k.a. Ben Mohand BEN LARBI; a.k.a. Ben Driss Muhand IBN LARBI; a.k.a. Abu TAHAR; a.k.a. EGGIE), born 15.8.1982 in Midar (Morocco), passport (Morocco) No. N829139

(Member of the 'Hofstadgroep')

6. EL MORABIT, Mohamed, born 24.1.1981 in Al Hoceima (Morocco), passport (Morocco) No. K789742

(Member of the 'Hofstadgroep')

7. ETTOUMI, Youssef (a.k.a. Youssef TOUMI), born 20.10.1977 in Amsterdam (The Netherlands), ID-card (The Netherlands) No. LNB4576246

(Member of the 'Hofstadgroep')

8. HAMDI, Ahmed (a.k.a. Abu IBRAHIM), born 5.9.1978 in Beni Said (Morocco), passport (Morocco) No. K728658

(Member of the 'Hofstadgroep')

9. WALTERS, Jason Theodore James (a.k.a. Abdullah; a.k.a. David), born 6.3.1985 in Amersfoort (The Netherlands), passport (The Netherlands) No. NE8146378

(Member of the 'Hofstadgroep')

II. GROUPS AND ENTITIES

1. Hofstadgroep
 2. TAK — Teyrbazen Azadiya Kurdistan, a.k.a. Kurdistan Freedom Falcons, Kurdistan Freedom Hawks
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