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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 964/2003

of 2 June 2003

imposing definitive anti-dumping duties on imports of certain tube or pipe-fittings, of iron or steel, originating in the People's Republic of China and Thailand, and those consigned from Taiwan, whether declared as originating in Taiwan or not

THE COUNCIL OF THE EUROPEAN UNION,

are consigned from Taiwan, based on the findings in an anti-circumvention investigation.

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'), and in particular Article 11(2) and (3) thereof,

B. PRESENT INVESTIGATION

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

Whereas:

A. PREVIOUS INVESTIGATION

- (1) By Regulation (EC) No 584/96 ⁽²⁾, the Council imposed a definitive anti-dumping duty on imports of certain tube or pipe-fittings, of iron or steel, originating in the People's Republic of China ('China'), Croatia and Thailand. The measures applying to these imports consisted of an *ad valorem* duty, except for three Thai exporting producers from which undertakings were accepted by Commission Decision 96/252/EC ⁽³⁾. In July 2000, the anti-dumping measure applicable to the imports of one of these three companies was repealed, following an interim review requested by this company, pursuant to Article 11(3) of the basic Regulation and which showed the absence of dumping ⁽⁴⁾.
- (2) Pursuant to Article 13(3) of the basic Regulation, the anti-dumping measures on imports from China have been extended by Regulation (EC) No 763/2000 ⁽⁵⁾, to cover certain imports of the product concerned which

- (3) Following the publication, in September 2000, of a notice ⁽⁶⁾ of the impending expiry of the anti-dumping measures in force, the Commission received a request for an expiry review lodged by the Defence Committee of EU Steel Butt-welding Fittings Industry, on behalf of producers representing a major proportion of the total Community production of certain tube or pipe-fittings of iron or steel. The request alleged that injurious dumping of imports originating in China and Thailand ('the countries concerned') would be likely to recur if measures expired. The applicant Community producers did not request the initiation of an expiry review concerning imports originating in Croatia on the grounds that available statistics show very low exports worldwide and, accordingly, no reliable evidence concerning the likely recurrence of injurious dumping. Consequently, the measures applicable to imports originating in Croatia expired on 4 April 2001.
- (4) Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission initiated an investigation ⁽⁷⁾, pursuant to Article 11(2) of the basic Regulation.
- (5) At the same time, likewise after consultation of the Advisory Committee, the Commission initiated an ex officio interim review pursuant to Article 11(3) of the basic Regulation, in order to examine the appropriateness of the form of the measures concerning the imports originating in Thailand.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).

⁽²⁾ OJ L 84, 3.4.1996, p. 1.

⁽³⁾ OJ L 84, 3.4.1996, p. 46.

⁽⁴⁾ Commission Decision 2000/453/EC (OJ L 182, 21.7.2000, p. 25).

⁽⁵⁾ OJ L 94, 14.4.2000, p. 1. Regulation as amended by Regulation (EC) No 2314/2000 (OJ L 267, 20.10.2000, p. 15).

⁽⁶⁾ OJ C 271, 22.9.2000, p. 4.

⁽⁷⁾ OJ C 103, 3.4.2001, p. 5.

(6) The investigation regarding the continuation and/or recurrence of dumping and injury covered the period from 1 April 2000 to 31 March 2001 ('IP'). The examination of the trends relevant for the assessment of a likelihood of a continuation and/or recurrence of injury covered the period from 1 January 1996 up to the end of the IP ('period under review').

(7) The Commission officially advised the applicant Community producers, the exporters and exporting producers in China and Thailand, importers/traders, user industries, and associations of users known to be concerned, as well as the representatives of the Chinese and Thai Governments of the initiation of the review. The Commission sent questionnaires to all these parties and to those who made themselves known within the time limit set in the notice of initiation. The Commission also gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(8) The following Community producers replied to the questionnaire, and verification visits were carried out at their premises:

(a) Erne Fittings GmbH & Co — Schlins, Austria

(b) Interfit — Maubeuge, France

(c) Siekmann Fittings GmbH & Co. KG — Lohne, Germany

(d) Virgilio CENA & Figli S.p.a.— Brescia, Italy.

(9) The two following exporting producers in Thailand replied to the questionnaire and verification visits were also carried out at their premises:

(a) TTU Industrial Corp., Ltd, Bangkok

(b) Awaji Sangyo (Thailand) Co., Ltd, Samutprakarn.

(10) The Commission sent questionnaires to 57 unrelated importers/traders, 23 user industries and 5 associations of user industries. Two questionnaire replies by importers have been received and these were subsequently verified on spot:

(a) INRABO S.R.L — Bologna, Italy

(b) IRC Spa — Cortemaggiore, Italy.

C. ONGOING INVESTIGATION CONCERNING OTHER COUNTRIES

(11) By a notice ⁽¹⁾ published in the Official Journal dated 1 June 2001, the Commission initiated an investigation concerning imports of the same product and originating in the Czech Republic, the Republic of Korea, Malaysia, Russia and Slovakia. This proceeding was initiated upon receipt of a complaint lodged by the Defence Committee of EU Steel Butt-welding Fittings Industry, and

containing sufficient prima facie evidence of injurious dumping practices caused by imports originating in these five countries. Definitive anti-dumping measures were imposed against imports originating in those countries in August 2002 ⁽²⁾.

D. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

(12) The product concerned is the same as in the original investigation, i.e. certain tube or pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes ('product concerned' or 'tube or pipe fittings'), currently classifiable within CN codes ex 7307 93 11 (TARIC code 7307 93 11 99), ex 7307 93 19 (TARIC code 7307 93 19 99), ex 7307 99 30 (TARIC code 7307 99 30 98) and ex 7307 99 90 (TARIC code 7307 99 90 98).

(13) Tubes or pipe fittings are used to join tubes or pipes and come in several different shapes (elbows, tees, reducers and caps), material grade and sizes. They can accordingly be categorised in different types according to these characteristics. They are mainly used in primary industries, such as chemicals, oil refining, energy generation, construction and shipbuilding.

(14) As in the previous investigation, this investigation has shown that the tube or pipe fittings of iron or steel, produced in the countries concerned, sold domestically and/or exported to the Community have the same basic physical and chemical characteristics as the products sold in the Community by the applicant Community producers and are considered to be like products, within the meaning of Article 1(4) of the basic Regulation.

E. LIKELIHOOD OF A CONTINUATION OR A RECURRENCE OF DUMPING

PRELIMINARY REMARK

(15) Under Article 11(2) of the basic Regulation, the purpose of this type of review is to determine whether or not the expiry of the measures would be likely to lead to a continuation or recurrence of dumping. Since the imports of the product under consideration from China and Thailand (with the exclusion of one exporting producer which is no longer subject to anti-dumping measures) were below the *de minimis* threshold in the IP, the analysis will not only focus on the likelihood of a continuation of dumping, but also on whether the removal of the measures would be likely to lead to a recurrence of dumping in significant volumes. It should be noted that in the original investigation the market shares of China and Thailand were 8,5 % and 2,6 % respectively.

⁽¹⁾ OJ C 159, 1.6.2001, p. 4.

⁽²⁾ OJ L 228, 24.8.2002, p. 1.

- (16) The two Thai exporting producers for which undertakings are currently in force cooperated in the investigation by replying to the questionnaire which was sent out by the Commission. No information was submitted by any Chinese exporting producer and therefore the findings related to their situation had to be established on the basis of the facts available, in accordance with Article 18 of the basic Regulation. In accordance with Article 11(9) of the basic Regulation, the Commission employed the same methodology as in the original investigation (see recitals 17 to 31 below).

LIKELIHOOD OF A CONTINUATION OF DUMPING

Thailand

Normal value

- (17) As far as the determination of normal value is concerned, it was first established for the two cooperating Thai exporting producers whether their total domestic sales of the like product were representative in comparison with their total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, this was found to be the case.
- (18) The Commission subsequently identified those product types, sold domestically by the companies concerned, that were identical or directly comparable to the types sold for export to the Community.
- (19) Wherever domestic prices of a particular product type sold by an exporting producer could not be used in order to establish normal value either because they had not been sold on the domestic market or not in the ordinary course of trade, another method had to be applied. In the absence of any other reasonable method, constructed normal value was used.
- (20) In all cases where constructed normal value was used and in accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the manufacturing costs of the exported types, a reasonable percentage for selling, general and administrative expenses ('SG&A') and a reasonable margin of profit. The domestic profit margin was determined on the basis of domestic sales made in the ordinary course of trade.

Export price

- (21) Since all export sales of the product under consideration were made directly to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation on the basis of the prices actually paid or payable.

Comparison

- (22) For the purposes of a fair comparison by product type on an ex-factory basis and at the same level of trade, due allowance was made for differences which were claimed and demonstrated to affect price comparability. These adjustments were made in respect of import charges, transport, insurance, handling costs, packing, credit and commissions in accordance with Article 2(10) of the basic Regulation.
- (23) One Thai exporting producer claimed an adjustment for credit cost on the grounds that it was standard practice to grant 30 to 90 days of credit to known domestic customers. This claim was rejected because the applicant failed to show, e.g. by means of contracts or a description of the payment terms on the invoices, that this was a factor taken into account in the determination of the prices charged.
- (24) Both Thai companies claimed an allowance for import charges. Pursuant to Article 2(10)(b) of the basic Regulation these requests were granted where it was demonstrated that the materials on which import duties were payable had been physically incorporated into the products concerned sold on the domestic market and that the import duties had not been collected or were refunded in respect of the product exported to the Community. Only one of the two companies was able to demonstrate this.

Dumping margin

- (25) In order to calculate the dumping margin, the Commission compared the weighted average normal value to the average export price to the Community at ex-factory level and at the same level of trade. This comparison showed the existence of dumping for both companies concerned, ranging from about 23 to about 88 %.

China

Analogue country

- (26) The existing measures provide for a single countrywide duty on all imports into the Community of tube and pipe fittings originating in China. Accordingly, normal value was determined on the basis of information obtained in a market economy third country ('the analogue country').

- (27) Thailand had served as an analogue country in the original investigation. In the notice of initiation of this expiry review it was therefore envisaged to choose Thailand again as analogue country for the purpose of establishing normal value. Since it was found that the findings of the previous investigation were still valid, i.e. prices were governed by market forces, several producers competed on the Thai market and the production technology and process were, to a large extent, similar between China and Thailand, as no interested party commented on this choice of analogue country and since the Thai exporting producers cooperated, Thailand was, therefore, in accordance with Article 2(7) of the basic Regulation, considered to be an appropriate and not unreasonable choice of analogue country for establishing normal value in respect of China for the product concerned.

Normal value

- (28) In the absence of cooperation from China, recourse had to be made to facts available. In the circumstances of this case no information on the product mix of Chinese exports was available, and therefore the determination of the normal value had to be established on the basis of the weighted average of the various normal values established for the cooperating Thai exporting producers during the investigation period.

Export price

- (29) As regards the exports to the Community, given that exporting producers in China did not cooperate, findings had to be based on the facts available, in accordance with Article 18(1) of the basic Regulation. The export price was thus determined on the basis of Chinese export trade statistics since it was found that these appeared to be more reliable for the product concerned than Eurostat data. In this context it should be noted that the Eurostat statistics for the product concerned are ex codes, i.e. they do not exclusively include the product concerned, and that the Chinese data were more in line with the complaint.

Comparison

- (30) For the purpose of a fair comparison, and in accordance with Article 2(10) of the basic Regulation, due allowance in the form of adjustments was made for differences in respect of transport and insurance costs, which were considered to affect prices and price comparability.

Dumping margin

- (31) In accordance with Article 2(11) of the basic Regulation, the weighted average normal value, on an ex-factory Thai basis, was compared to the weighted average export price on an ex-factory China basis, at the same level of trade. The above comparison showed the existence of significant dumping.

Conclusion

- (32) The investigation has revealed that although the quantities imported were limited, imports from both countries have continued at considerably dumped levels. The investigation did not reveal any reason why the level of dumping would disappear or decrease if the measures were to be repealed. It was therefore concluded that there is a likelihood of continuation of dumping. However, it was considered appropriate to also examine whether there would be a recurrence of dumping in increased export volumes should the existing measures be repealed.

Likelihood of a rise in dumped exports to the Community

- (33) For the purposes of the examination of a likelihood of recurrence of dumping in significant quantities, the following factors were assessed: the evolution of the export and/or production capacity, the background of circumvention in the case of China and the situation in the export behaviour on third country markets.

Thailand

- (34) The undertakings that have been accepted for the two cooperating exporting producers, in the framework of the original proceeding, had the effect of limiting their sales to the Community market during the investigation period. No breach of undertakings has been observed during this period.

Export capacity

- (35) The investigation showed that both cooperating companies have a very significant propensity to export, as during the period under review, more than 80 % of their production of the product concerned was exported. It appears that these companies have considerable flexibility in their production capacity, which represents around 25 % of the total EC consumption. In addition, the fact that these companies are extremely export oriented shows that they are likely to redirect their export sales to any market that would become more attractive in terms of prices and volume.

Thailand's exports to third countries

- (36) In view of the low volume currently imported into the Community, the export behaviour of the Thai exporting producers on one of their main export markets, the United States of America, has been considered. It was found that in 1992, following an anti-dumping proceeding concerning imports of a product largely overlapping with the one concerned by this investigation, limited to a diameter below 360 mm, and originating, *inter alia*, in Thailand, the US administration found margins of dumping for this country ranging from 10,7 % to 50,8 %. More importantly, in December 1999, pursuant to an expiry review, it was concluded that the removal of these measures would be likely to lead to the continuation or recurrence of dumping ⁽¹⁾.

China*Production and capacity utilisation*

- (37) Given the absence of cooperation from Chinese exporting producers, the Commission services had to make use of the facts available. Since little information is known about the Chinese industry, the following conclusions rely on the information contained in the complaint and Chinese export trade statistics. Support for these findings was also found in information that was made public in the framework of similar proceedings in the USA.
- (38) According to these sources, the total Chinese production capacity for the product concerned is around 250 000 metric tonnes per year. The current yearly Chinese production volume, as estimated in the complaint, is around 90 000 tonnes. This estimation is based on the Chinese worldwide export volume given by the trade statistics (around 17 000 tonnes/year), and on a domestic consumption estimated at roughly equal the Community consumption (around 70 000 tonnes/year).
- (39) On this basis, the Chinese capacity utilisation rate would be below 40 % and their spare capacity higher than the total Community consumption.
- (40) Consequently, the large production capacity available in China, combined with the size of the Chinese domestic market, gives Chinese exporting producers considerable flexibility to switch both between markets and product types. These producers are therefore able to quickly

increase production and direct it to any export market, including, were the measures to be repealed, the Community market.

Background of circumvention

- (41) It should be noted that the Chinese exporting producers not only have the capacity to massively resume their exports to the Community, but are also inclined to do so. This is demonstrated by the fact that, after the imposition of the original measures in 1995, the yearly imports from Taiwan have on average multiplied by a factor of 4, until an anti-circumvention investigation ⁽²⁾ showed that most of these imports were actually of Chinese origin and therefore measures applicable to China were extended to Taiwan (with the exception of three Taiwanese producers) in June 2000.

Chinese exports to third countries

- (42) The export behaviour of Chinese producers on other significant markets for the product concerned was also investigated. In this respect, the USA initiated, in the last decade, three different investigations concerning imports of a product largely overlapping with the one concerned by this investigation, limited to a diameter below 360 mm, originating, *inter alia*, in China. The first investigation, which took place in 1992, established very high margins of dumping (up to 182,9 %), and therefore anti-dumping measures were imposed against imports of the product concerned originating, *inter alia*, in China. Two years later, in 1994, a second investigation determined that these anti-dumping measures were circumvented by shipping the products through Thailand. Finally, the anti-dumping measures in force have been reviewed in 1999 with the conclusion that the removal of the measures would lead to continuation or recurrence of injurious dumping.
- (43) All this shows that if the measures were to be repealed, the Chinese producers will very likely adopt the same export behaviour on the EC market, a market which is comparable to the one of the USA.
- (44) Finally, the absence of Chinese cooperation to the investigation is an indication that no Chinese producer was willing or able to show that no dumping would take place if measures were to be repealed.

Conclusion

- (45) The investigation has shown that both China and Thailand have continued their dumping practices during the investigation period.

⁽¹⁾ US Federal Register/Vol. 64, No 232, 3.12.1999.

⁽²⁾ OJ L 94, 14.4.2000, p. 1.

- (46) Given the fact that China has a very large spare production capacity available and that it has already circumvented the measures, there is a strong likelihood that Chinese exporting producers would substantially increase their dumped exports of the product concerned to the Community in case existing measures were to be repealed.
- (47) With respect to Thailand it should be noted that since the Thai companies are very export oriented and given the attractiveness of the Community market, it is very likely that, should the existing measures be repealed, these companies would resume to export the product concerned to the Community market in substantial volumes and at dumped prices.
- (48) Finally, reference is made to the dumped sales of Chinese and Thai exporters on the US market and the US anti-dumping measures which have been renewed in 1999.
- (49) In summary, it is highly probable that imports to the Community from the countries concerned will resume in significant quantities and at dumped prices, should the measures be repealed.

DEFINITION OF THE COMMUNITY INDUSTRY

- (50) The four Community producers which cooperated fully in the investigation represented around 60 % of the Community production of the product concerned during the IP and therefore constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation. It should be noted that three other producers, that also participated in the review request, representing around 10 % of the Community production, did not subsequently reply to the questionnaire within the granted deadline. Two of these producers support the proceeding, while the third one did not express any opinion regarding the proceeding.

F. THE SITUATION OF THE COMMUNITY MARKET

COMMUNITY CONSUMPTION

- (51) It should be noted that part of the EU producers' domestic sales are made to stockists (which did not cooperate), that in turn export the products outside the Community. The apparent Community consumption was therefore established on the basis of the production volume of the Community industry and of the other Community producers (on the basis of the information contained in the request), and on the Community import and export volume based on Eurostat data.
- (52) On this basis, it was established that the Community consumption first increased from around 57 000 tonnes in 1996 to around 64 500 tonnes in 1998, but subsequently dropped to around 50 800 tonnes in the IP.

EVOLUTION OF IMPORTS FROM THE COUNTRIES CONCERNED

Import volumes and market shares

- (53) With respect to the countries concerned and Taiwan, the import volume and market shares developed as such:

	1996	1997	1998	1999	2000	IP
Thailand	111	204	614	740	1 049	1 385
market shares	0,2 %	0,3 %	1,0 %	1,0 %	2,1 %	2,7 %
China	316	85	95	78	44	35
market shares	0,6 %	0,1 %	0,1 %	0,3 %	0,1 %	0,1 %
Taiwan	2 663	5 947	4 434	3 246	1 299	1 259
market shares	4,7 %	9,7 %	6,9 %	6,2 %	2,6 %	2,5 %

- (54) The overall Thai imports significantly increased from around 100 tonnes in 1996 to around 1 400 tonnes during the IP. The most significant increase took place between 1999 and 2000, which coincides with the entry into force of the Commission Decision to repeal the measures for one Thai exporting producer, resulting from an interim review pursuant to article 11(3) of the basic Regulation. When considering only those companies still subject to anti-dumping duties, the increase in volume remained however limited, with a market share increasing from 0,3 % in 1996 to 0,5 % during the IP. It should be noted that in the previous investigation period (from 1 July to 31 December 1993), the Thai market shares were 2,6 %.
- (55) As shown above, the volume of imports from China also remained limited during the period under review. It should however be recalled that an anti-circumvention investigation concluded that a significant part of the imports from Taiwan was in fact of Chinese origin. The sharp decrease of these imports in 2000 coincides with the extension of the anti-dumping measures on Chinese imports to certain imports from Taiwan. In the previous investigation period the Chinese market shares reached 8,5 %.

PRICE EVOLUTION OF THE IMPORTS

- (56) Export prices of the two cooperating Thai producers have increased by 6 % between 1996 and the IP. However, over the whole period under review, they followed no clear trend, with ups and downs of less than 10 % of the average price during this period.
- (57) According to Eurostat statistics, the Chinese export prices overall decreased by 7 % between 1996 and the IP. Like the Thai prices, they followed no clear trend during the period under review.

IMPORT VOLUME AND MARKET SHARES FROM COUNTRIES NOT CONCERNED

- (58) As to imports from the countries not concerned by this proceeding, and as shown in the table below, they significantly increased from around 4 300 tonnes in 1996 to 11 700 tonnes during the IP. Their overall increase in market shares during the period under review is 15,5 percentage points.

	1996	1997	1998	1999	2000	IP
Countries not concerned	4 271	5 922	7 510	4 169	10 821	11 686
market shares	7,5 %	9,6 %	1,6 %	8,0 %	21,3 %	23,0 %

G. ECONOMIC SITUATION OF THE COMMUNITY INDUSTRY

PRELIMINARY REMARK

- (59) The economic indicators presented below show a positive development for the years 1996 to 1998, subsequently followed by a deterioration of the overall economic situation of the Community industry. This development should be seen in the light of the imposition of the definitive anti-dumping measures in 1995, the circumvention practices and the related extension of the measures to certain imports originating in Taiwan in 2000, and finally the increasing volume of dumped imports from other countries subject to a separate proceeding.

Production

Production	1996	1997	1998	1999	2000	IP
metric tonnes	42 455	44 771	46 499	43 009	43 903	46 905

- (60) The Community industry's production first increased by 10 % between 1996 and 1998, then fell back to the 1996 level, to go up again to the level reached in 1998.

Capacity and capacity utilisation rates

Capacity	1996	1997	1998	1999	2000	IP
metric tonnes	88 400	88 400	88 400	87 300	87 900	87 900
Utilisation	48 %	51 %	53 %	49 %	50 %	53 %

- (61) The total production capacity of the Community industry was relatively stable over the period under review and therefore the capacity utilisation level followed a trend identical to the one of the production volume.

Sales volume of the product concerned for consumption in the EU

Sales volume in EC	1996	1997	1998	1999	2000	IP
metric tonnes	30 147	30 038	32 897	28 470	24 893	24 313

- (62) As explained above, only sales destined for EU consumption have been considered. On this basis, during the period under review, the sales volume of the Community decreased from around 30 100 tonnes in 1996 to around 24 300 tonnes during the IP, an decrease of around 19 %. It is, however, important to notice that between 1996 and 1998 the sales volume increased by 9 %, reaching a level of around 33 000 tonnes in 1998, and then fell back to around 24 300 tonnes in the IP.

Stocks

Closing stocks	1996	1997	1998	1999	2000	IP
metric tonnes	5 629	5 920	6 022	6 109	5 571	5 401

- (63) The level of stocks decreased by around 4 % between 1996 and the IP. While it was more or less stable during the first four years of the period under review, it started to decrease considerably after 1999.

Market share

Market shares	1996	1997	1998	1999	2000	IP
Community industry	52,8 %	48,9 %	50,9 %	54,7 %	49,0 %	47,9 %

- (64) The Community industry decreased by 4,9 percentage points in market shares between 1996 and the IP. However, between 1996 and 1999, the market shares increased by 1,9 percentage point, resulting from the imposition of the measures currently under review. Thereafter, the position of the Community industry on the market deteriorated.

Sales prices of the Community industry

Unit price, sales in EC	1996	1997	1998	1999	2000	IP
EUR/metric tonne	1 812	1 686	1 595	1 515	1 437	1 413

- (65) The Community industry's average unit net sales price decreased from EUR 1 812 in 1996 to EUR 1 413 during the IP, a decrease of 22 %. The sales prices dropped by approximately 5 % every single year.

Profitability and return on investments

Profitability	1996	1997	1998	1999	2000	IP
% of net turnover in the EC	3,1 %	5,2 %	3,3 %	- 2,4 %	- 4,2 %	- 3,5 %
Return on investment	7,5 %	17,7 %	17,6 %	- 1,0 %	- 6,2 %	- 3,7 %

- (66) The Community industry managed to increase its profitability from 3,1 % in 1996 to 5,2 % in 1997. After that year, however, profitability continuously decreased and was clearly negative during the IP, at - 3,5 %. It should be noted that the Community industry was in a loss making situation of around - 7 % on turnover during the investigation period of the original investigation (July to December 1993).
- (67) The return on investments broadly followed the profitability curve during the period under review. It should be noted that both direct investments and a portion of investments indirectly related to the production of the product concerned have been considered.

Cash flow

Cash flow	1996	1997	1998	1999	2000	IP
EUR 1 000	3 009	5 393	4 939	1 773	638	281

- (68) The cash-flow generated by the sales of the product concerned increased by around 65 % between 1996 and 1998 and then dramatically decreased to EUR 281 000 during the IP.

Ability to raise capital

- (69) None of the companies mentioned any current difficulty to raise capital. However, should the cash flow continue to deteriorate, this situation may change.

Employment and wages

Employment and wages	1996	1997	1998	1999	2000	IP
Total employees	547	548	580	555	535	580
Average wages per employee (EUR 1 000)	33,4	33,6	35,1	34,5	35,1	35,9

- (70) Employment in the Community industry did not follow a clear trend. It increased between 1996 and 1998, from 547 to 580 employees, decreased thereafter, but came back to its 1998 level during the IP. The increase during the IP is to be put in relation to an increasing production during the same period.
- (71) The average wages per employee remained stable relatively stable during the years 1996 and 1997, and thereafter it gradually increased. Between 1996 and the IP, the overall increase was of around 7 %.

Productivity

Productivity	1996	1997	1998	1999	2000	IP
Productivity (production in tonnes per employee)	77,6	81,7	80,2	77,5	82,1	80,9

- (72) Productivity increased by 3 % between 1996 and 1998, from 77,6 tonnes per employee to 80,2. It then decreased but regained its 1998 level during the IP.

Investment

Investments	1996	1997	1998	1999	2000	IP
EUR 1 000	2 738	2 222	2 441	3 094	2 781	2 529

- (73) New investments remained at a relatively stable level during the period under review. These investment mainly consisted of renewal or improvement of existing equipment and are not related to any capacity increases.

Growth

- (74) As explained above, between the years 1996 and 1998, the Community industry could benefit from the growing market, and increased its sales volume and market share. Thereafter however, the Community consumption decreased and, in spite of the decreasing import volume from the countries concerned (specifically circumvented via Taiwan), the Community industry sales and market shares decreased.

Magnitude of dumping margin

- (75) In view of the low volume of imports from the countries concerned during the IP, the magnitude of the established dumping margin is expected to have negative effects especially if the volume of the imports concerned increases in the future. In this context the conclusions in heading E.4. are recalled, which stated that it is highly probable that imports to the Community from the countries concerned will resume in significant quantities and at dumped prices, should the measures be repealed.

Recovery from the effects of past dumping

- (76) As indicated by the positive evolution of most of the above listed indicators, the economic situation of the Community industry recovered, in the years 1996 to 1998, from the injurious effect of dumped imports originating in the two countries concerned. Thereafter the situation deteriorated again, resulting from the effect of increasing dumped imports from other third countries (see heading C).

CONCLUSION ON THE ANALYSIS OF THE SITUATION OF THE COMMUNITY MARKET

- (77) The introduction of the measures against China and Thailand clearly had a positive impact on the economic situation of the Community industry when compared to the situation before their introduction. Most of the injury indicators showed a positive development between 1996 and 1998. Production, capacity utilisation and sales volume went up, resulting in a gain in market shares and increasing employment. The profitability indicators such as return on turnover, return on investments and cash flow also developed favourably. Had the measures not been circumvented by imports from Taiwan, this development would have been even more favourable. However, after 1998, the economic situation of the Community industry generally deteriorated: volume of sales, market shares and production decreased as well as profitability and prices. The injury suffered by the Community industry during this period was caused by dumped imports originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia, and therefore definitive anti-dumping measures were imposed against these countries in August 2002 ⁽¹⁾.

⁽¹⁾ Council Regulation (EC) No 1514/2002 of 19 August 2002 (OJ L 228, 24.8.2002, p. 1).

H. LIKELIHOOD OF CONTINUATION AND/OR RECURRENCE OF INJURY

- (78) In order to assess the likely effect of the expiry of the measures in force, the following elements were considered:
- (a) As explained under recitals 33 to 44:
 - there are clear indications that the Chinese and Thai producers have the potential to raise and/or redirect their export volumes to the Community market,
 - on the basis of the export price behaviour established in respect of Chinese and Thai exports to the USA, it is likely that, in the absence of measures, producers in the countries concerned would readopt a policy of dumped prices on the Community market. Indeed, on an overall basis, the prices charged to these export markets are lower than the prices of the Community industry, even though a detailed analysis could not be carried out in view of the numerous variety of different product types and accordingly the impossibility to establish precise price comparisons for all product types.
 - (b) The investigation showed that, on the basis of comparable product types, the Thai cooperating exporting producers sold the product concerned at a significantly lower price than the Community industry's. As to China, in the absence of cooperation and due to the variety of product types and thus import prices, no price comparison on a type per type basis could be carried out. However, the available facts indicate that the average Chinese import price is significantly lower than the one practised by Thai producers. It can accordingly be concluded that the difference between the sales prices of the products concerned originating in China and the Community industry's, without imposition of anti-dumping duties, is at least as significant as for imports originating in Thailand.
 - (c) These low prices would most likely continue to be charged by the countries concerned, also in order to regain their lost market shares. Such a price behaviour, coupled with the ability of China and Thailand to deliver significant quantities of the product concerned on the Community market, would in all likelihood have the effect of reinforcing the price-depressive trend on the market, with an expected negative impact on the economic situation of the Community industry.
- (79) Moreover, the lapsing of the measures against Chinese imports would entail the lapsing of the circumvention measures with regard to the imports of the product concerned from Taiwan. In this respect it should be recalled that, as explained under recital 41, the measures against Chinese imports were found to be massively circumvented and therefore extended to Taiwan. Should these measures against Taiwan be repealed, there is a strong likelihood that circumvention will resume.
- (80) On the basis of the above, it is concluded that, should the measures be repealed, there is a likelihood of recurrence of injury from China and Thailand.

I. COMMUNITY INTEREST

PRELIMINARY REMARK

- (81) According to Article 21 of the basic Regulation, it was examined whether maintenance of the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an appreciation of all the various interests involved, i.e. those of the Community industry, the importers/traders as well as the users of the product under consideration.
- (82) It should be recalled that, in the previous investigation, the adoption of measures was considered not to be against the interest of the Community. Furthermore, the fact that the present investigation is a review, thus analysing a situation in which anti-dumping measures have already been in place, allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.

- (83) On this basis it was examined whether, despite the conclusions on the likelihood of a recurrence of injurious dumping, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.

Interest of the Community industry

- (84) The Community industry has proven to be a structurally viable industry. This was confirmed by the positive development of its economic situation at a time when effective competition had been restored after the imposition of the anti-dumping measures that are currently in force. The level of profit it could reach two years after the imposition of the measures was considered at the time of the original investigation to be reasonable with regards to what the industry could be expected to obtain in the absence of dumped imports.
- (85) It can reasonably be expected that the Community industry will continue to benefit from the measures currently imposed. Should the measures not be maintained, it is likely that the Community industry will suffer injury, even if action is taken against the other countries that are importing at dumped prices.

Interest of unrelated importers/traders

- (86) The Commission sent questionnaires to 57 unrelated importers/traders. Only two importers replied to the questionnaire. One of these importers used to purchase the product concerned from China, but changed its supplier after the measures were imposed. It claimed accordingly not to be affected whether measures were to be maintained or repealed. The second importer is in favour of the prolongation of the measures and claimed that unfair trade behaviour before measures were imposed had a distorting effect on the Community market.
- (87) Nineteen other importers replied that they were not concerned by the proceeding since they did not purchase from the countries concerned during the period under review. No other reaction was received and it can accordingly be concluded that the maintenance of the measures will not have a significant negative effect on importers or traders.

Interest of users

- (88) The users of the product concerned are mainly petrochemical industries as well as industries active in the building sector. The Commission sent out questionnaires to 23 users and 5 European associations of potential users. Only three companies replied and these all claimed not to be interested in the proceeding.
- (89) This lack of cooperation appears to confirm that the tube or pipe fittings represent a very small part of total production costs for these companies, and that the measures currently in force did not have any substantial negative effect on their economic situation.

J. CONCLUSION ON COMMUNITY INTEREST

- (90) Given the above reasons, it is concluded that it is not considered that any possible impact on importers and user industries would be capable of offsetting the positive effect on the Community industry of the measures against recurrent injurious dumping. Accordingly there are no compelling reasons against the continuation of the anti-dumping measures.

Form of the measures as regards Thailand

- (91) As stated in the notice of initiation, the interim review regarding the form of the measure for imports originating in Thailand was initiated by the Commission on its own initiative.
- (92) No final conclusions in this respect have been reached yet and the investigation is still on-going.

K. ANTI-DUMPING MEASURES

- (93) All parties were informed of the essential facts and considerations on the basis of which it is intended to recommend that the existing measures be maintained. They were also granted a period to make representations subsequent to this disclosure. No comments were received which were of a nature to change the above conclusions.
- (94) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of tube or pipe fittings, of iron or steel, originating in China and Thailand or consigned from Taiwan, as extended by Council Regulation (EC) No 763/2000 and as amended by Council Regulation (EC) No 2314/2000, should be maintained. It is recalled that these measures consist of an *ad valorem* duty for both countries concerned, with the exception of the imports of the product concerned which are manufactured and sold for export to the Community by two Thai companies for which undertakings have been accepted,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of tube or pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, falling within CN codes ex 7307 93 11 (TARIC code 7307 93 11 99), ex 7307 93 19 (TARIC code 7307 93 19 99), ex 7307 99 30 (TARIC code 7307 99 30 98) and ex 7307 99 90 (TARIC code 7307 99 90 98) and originating in the People's Republic of China and Thailand.

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

Country	Rate of duty	TARIC additional code
People's Republic of China	58,6 %	—
Thailand	58,9 %	8851
Except: Thai Benkan Co. Ltd, Prapadaeng-Samutprakarn	0 %	A118

3. Notwithstanding paragraph 1, the definitive anti-dumping duty shall not apply to imports released into free circulation in accordance with Article 2.

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

Article 2

1. Imports declared for release into free circulation under the following TARIC additional code which are produced and directly exported (i.e. shipped and invoiced) by the company below to a company in the Community acting as an importer shall be exempt from the anti-dumping duty imposed by Article 1 provided that such imports are imported in conformity with paragraph 2 of this Article.

Country	Company	TARIC additional code
Thailand	Awaji Sangyo (Thailand) Co. Ltd, Samutprakarn	8850
	TTU Industrial Corp. Ltd Bangkok.	8850

2. Imports mentioned in paragraph 1 shall be exempt from the anti-dumping duty on condition that:
- (a) a commercial invoice containing at least the elements listed in the Annex is presented to Member States' customs authorities upon presentation of the declaration for release into free circulation; and
 - (b) the goods declared and presented to customs correspond precisely to the description on the commercial invoice.

Article 3

The definitive anti-dumping duty imposed by Article 1 on imports originating in the People's Republic of China is hereby extended to imports of the same fittings (TARIC codes: 7307 93 11 91; 7307 93 19 91; 7307 99 30 92; 7307 99 90 92) consigned from Taiwan (TARIC additional code A 999), with the exception of those produced by Chup Hsin Enterprise Co. Ltd, Kaohsiung (Taiwan) (TARIC additional code A 098), Rigid Industries Co. Ltd, Kaohsiung (Taiwan) (TARIC additional code A 099) and Niang Hong Pipe Fittings Co. Ltd, Kaohsiung (Taiwan) (TARIC additional code A 100).

Article 4

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

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

Done at Luxembourg, 2 June 2003.

For the Council

The President

K. STEFANIS

ANNEX

The following elements shall be indicated in the commercial invoice accompanying the company's sales of tube and pipe fittings to the Community which are subject to the undertaking.

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'
2. The name of the company mentioned in Article 2(1) issuing the commercial invoice
3. The commercial invoice number
4. The date of issue of the commercial invoice
5. The TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier
6. The exact description of the goods
7. The description of the terms of sale, including:
 - price,
 - the applicable payment terms,
 - the applicable delivery terms,
 - total discounts and rebates.
8. Name of the company acting as an importer to which the invoice is issued directly by the company
9. The name of the official of the company that has issued the undertaking invoice and the following signed declaration:

'I, the undersigned, certify that the sale for direct export by [company name] to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by [company name], and accepted by the European Commission through [Decision 1996/252/EC]. I declare that the information provided in this invoice is complete and correct.'

COMMISSION REGULATION (EC) No 965/2003
of 5 June 2003
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1947/2002 ⁽²⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 6 June 2003.

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

Done at Brussels, 5 June 2003.

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

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 299, 1.11.2002, p. 17.

ANNEX

to the Commission Regulation of 5 June 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	71,1
	999	71,1
0707 00 05	052	96,7
	999	96,7
0709 90 70	052	88,0
	999	88,0
0805 50 10	382	86,7
	388	76,7
	528	61,9
	999	75,1
0808 10 20, 0808 10 50, 0808 10 90	388	88,5
	400	108,8
	404	91,3
	508	81,7
	512	77,3
	524	59,9
	528	70,9
	720	113,5
	800	144,9
	804	103,3
	999	94,0
0809 10 00	052	307,9
	220	56,9
	999	182,4
0809 20 95	400	309,6
	999	309,6

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

COMMISSION REGULATION (EC) No 966/2003**of 5 June 2003****fixing the representative prices and the additional import duties for molasses in the sugar sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the market in sugar ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 ⁽³⁾, as amended by Regulation (EC) No 79/2003 ⁽⁴⁾, and in particular Article 1(2) and Article 3(1) thereof,

Whereas:

- (1) Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 ⁽⁵⁾. That price should be fixed for the standard quality defined in Article 1 of the above Regulation.
- (2) The representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality. The standard quality for molasses is defined in Regulation (EEC) No 785/68.
- (3) When the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States. Under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends.
- (4) The information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small

quantity that is not representative of the market. Offer prices which can be regarded as not representative of actual market trends must also be disregarded.

- (5) If information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68.
- (6) A representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price.
- (7) Where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95. Should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed.
- (8) Application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation.
- (9) 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

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 6 June 2003.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 141, 24.6.1995, p. 12.

⁽⁴⁾ OJ L 13, 18.1.2003, p. 4.

⁽⁵⁾ OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 5 June 2003.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

ANNEX

to the Commission Regulation of 5 June 2003 fixing the representative prices and additional import duties to imports of molasses in the sugar sector

(in EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/ 95 ⁽²⁾
1703 10 00 ⁽¹⁾	6,84	0,08	—
1703 90 00 ⁽¹⁾	8,98	—	0

⁽¹⁾ For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 967/2003**of 5 June 2003****fixing the export refunds on white sugar and raw sugar without further processing**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾, and in particular the second subparagraph of Article 27(5) thereof,

Whereas:

(1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(a) of that Regulation and the prices for those products within the Community may be covered by an export refund.

(2) Regulation (EC) No 1260/2001 provides that when refunds on white sugar and raw sugar, non-denatured and exported without further processing, are being fixed, account must be taken of the situation on the Community and world markets in sugar, and in particular of the price and cost factors set out in Article 28 of that Regulation. The same Article provides that the economic aspect of the proposed exports should also be taken into account.

(3) The refund on raw sugar must be fixed in respect of the standard quality. The latter is defined in Annex I, point II, to Regulation (EC) No 1260/2001. Furthermore, this refund should be fixed in accordance with Article 28(4) of Regulation (EC) No 1260/2001. Candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector ⁽³⁾. The refund thus calculated for sugar containing added flavour or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content.

(4) In special cases, the amount of the refund may be fixed by other legal instruments.

(5) The refund must be fixed every two weeks. It may be altered in the intervening period.

(6) The first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001 provides that refunds on the products referred to in Article 1 of that Regulation may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

(7) The significant and rapid increase in preferential imports of sugar from the western Balkan countries since the start of 2001 and in exports of sugar to those countries from the Community seems to be highly artificial in nature.

(8) In order to prevent any abuses associated with the re-importation into the Community of sugar sector products that have qualified for export refunds, refunds for the products covered by this Regulation should not be fixed for all the countries of the western Balkans.

(9) In view of the above and of the present situation on the market in sugar, and in particular of the quotations or prices for sugar within the Community and on the world market, refunds should be fixed at the appropriate amounts.

(10) 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

The refunds to be granted on exports of the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, non-denatured and without further processing, are hereby fixed in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 6 June 2003.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 214, 8.9.1995, p. 16.

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

Done at Brussels, 5 June 2003.

For the Commission
 Franz FISCHLER
 Member of the Commission

ANNEX

REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	43,65 ⁽¹⁾
1701 11 90 9910	S00	EUR/100 kg	44,29 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	43,65 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	44,29 ⁽¹⁾
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,4745
1701 99 10 9100	S00	EUR/100 kg	47,45
1701 99 10 9910	S00	EUR/100 kg	48,15
1701 99 10 9950	S00	EUR/100 kg	48,15
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,4745

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

The numeric destination codes are set out in Commission Regulation (EC) No 1779/2002 (OJ L 269, 5.10.2002, p. 6).

The other destinations are:

S00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including Kosovo, as defined in UN Security Council Resolution 1244 of 10 June 1999) and the former Yugoslav Republic of Macedonia, save for sugar incorporated in the products referred to in Article 1(2)(b) of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).

⁽¹⁾ This amount is applicable to raw sugar with a yield of 92 %. Where the yield for exported raw sugar differs from 92 %, the refund amount applicable shall be calculated in accordance with Article 28(4) of Regulation (EC) No 1260/2001.

COMMISSION REGULATION (EC) No 968/2003**of 5 June 2003****fixing the maximum export refund for white sugar to certain third countries for the 31st partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1331/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾, and in particular Article 27(5) thereof,

Whereas:

(1) Commission Regulation (EC) No 1331/2002 of 23 July 2002 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, as amended by Regulation (EC) No 432/2003 ⁽⁴⁾, for the 2002/2003 marketing year, requires partial invitations to tender to be issued for the export of this sugar to certain third countries.

(2) Pursuant to Article 9(1) of Regulation (EC) No 1331/2002 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question.

(3) Following an examination of the tenders submitted in response to the 31st partial invitation to tender, the provisions set out in Article 1 should be adopted.

(4) 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

For the 31st partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1331/2002 the maximum amount of the export refund to certain third countries is fixed at 51,201 EUR/100 kg.

Article 2

This Regulation shall enter into force on 6 June 2003.

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

Done at Brussels, 5 June 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 195, 24.7.2002, p. 6.

⁽⁴⁾ OJ L 65, 8.3.2003, p. 21.

COMMISSION REGULATION (EC) No 969/2003

of 5 June 2003

amending Regulation (EC) No 925/2003 as regards wheat and meslin flour and malt import quotas

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2003/298/EC of 14 April 2003 on the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions ⁽¹⁾, and in particular Article 3(2) thereof,

Whereas:

- (1) In accordance with Decision 2003/298/EC, which is applicable from 1 May 2003, the Community has undertaken to establish for each marketing year import tariff quotas at a reduced or zero rate of duty for 16 875 tonnes of wheat and meslin flour (order number 09.4618) and 45 250 tonnes of malt (order number 09.4619) originating in the Czech Republic.
- (2) Those import quotas should be managed according to the provisions of Commission Regulation (EC) No 925/2003 laying down detailed rules for the application of Council Decision 2003/298/EC as regards the concessions in the form of Community tariff quotas on certain cereal products originating in the Czech Republic and amending Regulation (EC) No 2809/2000 ⁽²⁾, until 30 June 2003.
- (3) In the interest of simplification the provisions of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾, as last amended by Regulation (EC) No 444/2002 ⁽⁴⁾, should be applied to those quotas as from 1 July 2003, which is the starting date of the new marketing year.
- (4) The periods of application of the quotas listed in Annex I to Regulation (EC) No 925/2003 are not in conformity with the periods provided for in Decision 2003/298/EC. That Annex should therefore be replaced.
- (5) Regulation (EC) No 925/2003 should therefore be amended accordingly.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

Article 1

Regulation (EC) No 925/2003 is amended as follows:

1. Article 1 is amended as follows:

(a) the following paragraphs 2a and 2b are inserted:

‘2a. Imports of wheat and meslin flour falling within CN code 1101 00 as referred to in Annex I originating in the Czech Republic and benefiting from a reduction to 20 % of the most favoured nations duty, under the tariff quota bearing the order number 09.4618, in accordance with Decision 2003/298/EC, shall be subject to an import licence issued in accordance with this Regulation.

2b. Imports of malt falling within CN code 1107 as referred to in Annex I originating in the Czech Republic and benefiting from a zero rate of import duty, under the tariff quota bearing the order number 09.4619, in accordance with Decision 2003/298/EC, shall be subject to an import licence issued in accordance with this Regulation.’

(b) in paragraph 3, the introductory phrase is replaced by the following:

‘the products referred to in paragraphs 1 to 2b shall be released into free circulation upon presentation of one of the following documents:’

2. The following Article 1a is inserted:

‘Article 1a

From 1 July 2003, imports of wheat and meslin flour and malt originating in the Czech Republic referred to in Annex I shall be administered by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93 ^(*). From that date, the order numbers of those import quotas shall be, respectively, 09.5831 and 09.5832.

^(*) OJ L 253, 11.10.1993, p. 1.’

3. In the second subparagraph of Article 3, the following sentence is added:

‘However, import licences issued in June 2003 for products imported under the quotas referred to in Article 1(2a) and (2b) shall only be valid until 30 June 2003.’

4. In Article 9, the second subparagraph is replaced by the following:

‘It shall apply from 1 May 2003’.

5. Annex I is replaced by the text in the Annex to this Regulation.

⁽¹⁾ OJ L 107, 30.4.2003, p. 12.

⁽²⁾ OJ L 131, 28.5.2003, p. 3.

⁽³⁾ OJ L 253, 11.10.1993, p. 1.

⁽⁴⁾ OJ L 68, 12.3.2002, p. 11.

Article 2

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 May 2003.

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

Done at Brussels, 5 June 2003.

For the Commission

Franz FISCHLER

Member of the Commission

*ANNEX**'ANNEX I***List of products originating in the Czech Republic referred to in Article 1(1) to (2b) and in Article 1a**

CN code	Quota order number from 1.7.2002 to 30.6.2003	Quota order number from 1.7.2003	Description	Rate of duty (% of MFN)	Quantity from 1.7.2002 to 30.6.2003 (tonnes)	Annual quantity from 1.7.2003 (tonnes)
1001	09.4638	09.4638	Wheat and meslin	Free	100 000	200 000
1005 10 90 1005 90 00	09.4639	09.4639	Maize	Free	10 000	20 000
1101 00	09.4618	09.5831	Wheat and meslin flour	20 %	16 875	16 875
1107	09.4619	09.5832	Malt	Free	45 250	45 250'

COMMISSION REGULATION (EC) No 970/2003

of 5 June 2003

amending Regulation (EC) No 788/2003 as regards wheat and meslin flour and malt import quotas

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2003/299/EC of 14 April 2003 on the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions ⁽¹⁾, and in particular Article 3(2) thereof,

Whereas:

- (1) In accordance with the Decision 2003/299/EC, which is applicable from 1 May 2003, the Community has undertaken to establish for each marketing year import tariff quotas at a reduced or zero rate of duty for 16 875 tonnes of wheat and meslin flour (order number 09.4618) and 18 125 tonnes of malt, not roasted, other than of wheat (order number 09.4619) originating in the Slovak Republic.
- (2) These import quotas should be managed according to the provisions of Commission Regulation (EC) No 788/2003 of 8 May 2003 laying down detailed rules for the application of Council Decision 2003/299/EC as regards the concessions in the form of Community tariff quotas on certain cereal products originating in the Slovak Republic and amending Regulation (EC) No 2809/2000 ⁽²⁾ until 30 June 2003.
- (3) In the interest of simplification the provisions of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾, as last amended by Regulation (EC) No 444/2002 ⁽⁴⁾, should be applied to those quotas as from 1 July 2003, which is the starting date of the new marketing year.
- (4) The reference to CN code for maize referred to in Article 1, Annex I and Annex II of Regulation (EC) No 788/2003 does not correspond to the reference mentioned in Decision 2003/299/EC. This error should therefore be corrected.
- (5) The periods of application of the quotas mentioned in Annex I to Regulation (EC) No 788/2003 are not in conformity with the periods provided for in Decision 2003/299/EC. That Annex should therefore be replaced.

- (6) Regulation (EC) No 788/2003 should therefore be amended accordingly.
- (7) 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

Regulation (EC) No 788/2003 is amended as follows:

1. Article 1 is amended as follows:

- (a) in paragraph 2, the terms 'CN code 1005' are replaced by the terms 'CN codes 1005 10 90 and 1005 90 00'.
- (b) the following paragraphs 2a and 2b are inserted:

'2a. Imports of wheat and meslin flour falling within CN code 1101 00 as referred to in Annex I originating in the Slovak Republic and benefiting from a reduction to 20 % of the most favoured nations rate of import duty, under the tariff quota bearing the order number 09.4618, in accordance with Decision 2003/299/EC, shall be subject to an import licence issued in accordance with this Regulation.

2b. Imports of malt, not roasted, other than of wheat falling within CN code 1107 10 99 as referred to in Annex I originating in the Slovak Republic and benefiting from a zero rate of import duty, under the tariff quota bearing the order number 09.4619, in accordance with Decision 2003/299/EC, shall be subject to an import licence issued in accordance with this Regulation.'

- (c) in paragraph 3, the introductory phrase is replaced by the following:

'The products referred to in paragraphs 1 to 2b shall be released into free circulation upon presentation of one of the following documents:'

2. The following Article 1a is inserted:

'Article 1a

From 1 July 2003, imports of wheat and meslin flour and malt, not roasted, other than of wheat originating in the Slovak Republic referred to in Annex I shall be administered by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93 ^(*). From that date, the order numbers of these import quotas shall be, respectively, 09.5833 and 09.5834.

^(*) OJ L 253, 11.10.1993, p. 1.'

⁽¹⁾ OJ L 107, 30.4.2003, p. 36.

⁽²⁾ OJ L 115, 9.5.2003, p. 25.

⁽³⁾ OJ L 253, 11.10.1993, p. 1.

⁽⁴⁾ OJ L 68, 12.3.2002, p. 11.

3. In the second subparagraph of Article 3, the following sentence is added:

'However, import licences issued in June 2003 for products imported under the quotas referred to in Article 1(2a) and (2b) shall only be valid until 30 June 2003.'

4. Annex I is replaced by the text in Annex I to this Regulation.

5. Annex II is replaced by the text in Annex II to this Regulation.

Article 2

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 May 2003.

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

Done at Brussels, 5 June 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

'ANNEX I

List of products originating in the Slovak Republic referred to in Article 1(1) to (2b) and in Article 1a

CN code	Quota order number from 1.7.2002 to 30.6.2003	Quota order number from 1.7.2003	Description	Rate of duty (% of MFN)	Quantity from 1.7.2002 to 30.6.2003 (tonnes)	Annual quantity from 1.7.2003 (tonnes)
1001	09.4646	09.4646	Wheat and meslin	Free	50 000	100 000
1005 10 90 1005 90 00	09.4647	09.4647	Maize	Free	35 000	70 000
1101 00	09.4618	09.5833	Wheat and meslin flour	20 %	16 875	16 875
1107 10 99	09.4619	09.5834	Malt, not roasted, other than of wheat	Free	18 125	18 125'

ANNEX II

'ANNEX II

Model of the notification referred to in Article 2(2)**Import quotas for wheat, maize, wheat flour and malt from the Slovak Republic opened by Decision 2003/299/EC**

Quota	Product	CN code	Quantity applied for (tonnes)
Wheat	Wheat and meslin	1001	
Maize	Maize	1005 10 90 1005 90 00	
Flour	Wheat and meslin flour	1101 00	
Malt	Malt, not roasted, other than of wheat	1107 10 99'	

COMMISSION REGULATION (EC) No 971/2003**of 5 June 2003****fixing the maximum export refund on oats in connection with the invitation to tender issued in Regulation (EC) No 1582/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 1163/2002 ⁽⁴⁾, as amended by Regulation (EC) No 1324/2002 ⁽⁵⁾, and in particular Article 4 thereof,

Having regard to Commission Regulation (EC) No 1582/2002 of 5 September 2002 on a special intervention measure for cereals in Finland and Sweden ⁽⁶⁾, and in particular Article 8 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland or Sweden to all third countries was opened pursuant to Regulation (EC) No 1582/2002, except for Estonia, Lithuania, Latvia und Hungary.

- (2) Article 8 of Regulation (EC) No 1582/2002 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 30 May to 5 June 2003, pursuant to the invitation to tender issued in Regulation (EC) No 1582/2002, the maximum refund on exportation of oats shall be EUR 9,95/t.

Article 2

This Regulation shall enter into force on 6 June 2003.

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

Done at Brussels, 5 June 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 46.

⁽⁵⁾ OJ L 194, 23.7.2002, p. 26.

⁽⁶⁾ OJ L 243, 13.9.2001, p. 15.

COMMISSION REGULATION (EC) No 972/2003**of 5 June 2003****concerning tenders notified in response to the invitation to tender for the export of common wheat issued in Regulation (EC) No 934/2003**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1666/2000⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as last amended by Regulation (EC) No 1163/2002⁽⁴⁾, as amended by Regulation (EC) No 1324/2002⁽⁵⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of common wheat to certain third countries was opened pursuant to Commission Regulation (EC) No 934/2003⁽⁶⁾.

(2) Article 7 of Regulation (EC) No 1501/95 allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and on the basis of the tenders notified, to make no award.

(3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund should not be fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 3 to 5 June 2003 in response to the invitation to tender for the refund for the export of common wheat issued in Regulation (EC) No 934/2003.

Article 2

This Regulation shall enter into force on 6 June 2003.

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

Done at Brussels, 5 June 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 46.

⁽⁵⁾ OJ L 194, 23.7.2002, p. 26.

⁽⁶⁾ OJ L 133, 29.5.2003, p. 42.

**COMMISSION REGULATION (EC) No 973/2003
of 5 June 2003**

**fixing the maximum reduction in the duty on maize imported in connection with the invitation to
tender issued in Regulation (EC) No 698/2003**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1666/2000⁽²⁾, and in particular Article 12(1) thereof,

Whereas:

(1) An invitation to tender for the maximum reduction in the duty on maize imported into Spain from third countries was opened pursuant to Commission Regulation (EC) No 698/2003⁽³⁾.

(2) Pursuant to Article 5 of Commission Regulation (EC) No 1839/95⁽⁴⁾, as last amended by Regulation (EC) No 2235/2000⁽⁵⁾, the Commission, acting under the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 30 May to 5 June 2003, pursuant to the invitation to tender issued in Regulation (EC) No 698/2003, the maximum reduction in the duty on maize imported shall be 44,95 EUR/t and be valid for a total maximum quantity of 119 386 t.

Article 2

This Regulation shall enter into force on 6 June 2003.

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

Done at Brussels, 5 June 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 99, 17.4.2003, p. 28.

⁽⁴⁾ OJ L 177, 28.7.1995, p. 4.

⁽⁵⁾ OJ L 256, 10.10.2000, p. 13.

**COMMISSION REGULATION (EC) No 974/2003
of 5 June 2003**

**fixing the maximum reduction in the duty on maize imported in connection with the invitation to
tender issued in Regulation (EC) No 581/2003**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1666/2000⁽²⁾, and in particular Article 12(1) thereof,

Whereas:

(1) An invitation to tender for the maximum reduction in the duty on maize imported into Portugal from third countries was opened pursuant to Commission Regulation (EC) No 581/2003⁽³⁾.

(2) Pursuant to Article 5 of Commission Regulation (EC) No 1839/95⁽⁴⁾, as last amended by Regulation (EC) No 2235/2000⁽⁵⁾, the Commission, acting under the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 30 May to 5 June 2003, pursuant to the invitation to tender issued in Regulation (EC) No 581/2003, the maximum reduction in the duty on maize imported shall be 41,89 EUR/t and be valid for a total maximum quantity of 24 500 t.

Article 2

This Regulation shall enter into force on 6 June 2003.

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

Done at Brussels, 5 June 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 83, 1.4.2003, p. 36.

⁽⁴⁾ OJ L 177, 28.7.1995, p. 4.

⁽⁵⁾ OJ L 256, 10.10.2000, p. 13.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 6 May 2003

on the designation of the European Capital of Culture 2006

(2003/399/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 1419/1999/EC of the European Parliament and of the Council of 25 May 1999 establishing a Community action for the European Capital of Culture event for the years 2005 to 2019 ⁽¹⁾, and in particular Article 2(3) thereof,

Having regard to the Selection Panel report received by the European Parliament, the Council and the Commission on 1 October 2002,

HAS DECIDED AS FOLLOWS:

Article 1

The City of Patras shall be designated as the European Capital of Culture 2006.

Article 2

The City of Patras shall take all necessary measures to ensure the effective implementation of Articles 1 and 5 of Decision No 1419/1999/EC.

Done at Brussels, 6 May 2003.

For the Council
The President
P. EFTHYMIU

⁽¹⁾ OJ L 166, 1.7.1999, p. 1.

COUNCIL DECISION

of 19 May 2003

amending Decision 2001/496/CFSP, Decision 2001/41/EC, the Council Decision of 25 June 1997 and the Council Decision of 22 March 1999 as regards the subsistence allowances of national military staff and experts on secondment to the General Secretariat of the Council

(2003/400/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28(1) thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 207(2) thereof,

Whereas:

- (1) The administrative arrangements applicable to national military staff and experts on secondment to the General Secretariat of the Council provide for the possibility, under certain conditions, of revision of the amount of the subsistence allowance granted.
- (2) Taking account of developments in consumer prices in Brussels, the amount of the subsistence allowance needs to be updated,

HAS DECIDED AS FOLLOWS:

Article 1

In Article 12(1):

- of Council Decision 2001/496/CFSP of 25 June 2001 on the rules applicable to national military staff on secondment to the General Secretariat of the Council in order to form the European Union Military Staff ⁽¹⁾,

- of Council Decision 2001/41/EC of 22 December 2000 on the rules applicable to national experts on detachment to the General Secretariat of the Council in the context of an exchange system for officials of the General Secretariat of the Council of the European Union and officials of national administrations or of international organisations ⁽²⁾,
 - of the Council Decision of 25 June 1997 on the rules applicable to National Experts on Detachment to the General Secretariat of the Council (Directorate-General for Justice and Home Affairs) in the context of implementation of the plan to step up the fight against organised crime, and
 - of the Council Decision of 22 March 1999 on the rules applicable to national experts on detachment to the General Secretariat of the Council (Directorate-General for Justice and Home Affairs) in the context of the collective evaluation of the enactment, application and effective implementation by the applicant countries of the *acquis* of the European Union in the field of Justice and Home Affairs,
- the amount of EUR 104,03 shall be replaced by EUR 107,1.

Article 2

This Decision shall take effect on the date of its adoption.

It shall apply from 1 February 2003.

Done at Brussels, 19 May 2003.

For the Council

The President

G. PAPANDREOU

⁽¹⁾ OJ L 181, 4.7.2001, p. 1.

⁽²⁾ OJ L 11, 16.1.2001, p. 35.

COUNCIL DECISION
of 19 May 2003
appointing the Chairman of the Military Committee of the European Union

(2003/401/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28(1) thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 207 thereof,

Recalling Council Decision 2001/79/CFSP of 22 January 2001 setting up the Military Committee of the European Union ⁽¹⁾,

Whereas:

- (1) Pursuant to Article 3 of Decision 2001/79/CFSP, the Chairman of the Military Committee is to be appointed by the Council on the recommendation of the Committee meeting at the level of the Chiefs of Defence.
- (2) At its meeting on 7 May 2003, the Committee meeting at the level of the Chiefs of Defence recommended that General Rolando Mosca Moschini be appointed Chairman of the Military Committee of the European Union,

HEREBY DECIDED AS FOLLOWS:

Article 1

General Rolando Mosca Moschini is appointed Chairman of the Military Committee of the European Union for a period of three years as from 9 April 2004.

Article 2

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

Done at Brussels, 19 May 2003.

For the Council
The President
G. PAPANDREOU

⁽¹⁾ OJ L 27, 30.1.2001, p. 4.

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

COUNCIL COMMON POSITION 2003/402/CFSP
of 5 June 2003
updating Common Position 2001/931/CFSP on the application of specific measures to combat
terrorism and repealing Common Position 2002/976/CFSP

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS COMMON POSITION:

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

Article 1

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

Whereas:

Article 2

Common Position 2002/976/CFSP is hereby repealed.

(1) On 27 December 2001, the Council adopted Common Position 2001/931/CFSP on the application of specific measures to combat terrorism ⁽¹⁾.

Article 3

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

(2) On 12 December 2002, the Council adopted Common Position 2002/976/CFSP updating Common Position 2001/931/CFSP and repealing Common Position 2002/847/CFSP ⁽²⁾.

Article 4

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

(3) Common Position 2001/931/CFSP provides for a review at regular intervals.

(4) It is necessary to update the Annex to Common Position 2001/931/CFSP and repeal Common Position 2002/976/CFSP.

Done at Luxembourg, 5 June 2003.

(5) A list has been elaborated in compliance with the criteria laid down in Article 1(4) of Common Position 2001/931/CFSP,

For the Council

The President

M. CHRISOCHOÏDIS

⁽¹⁾ OJ L 344, 28.12.2001, p. 93.

⁽²⁾ OJ L 337, 13.12.2002, p. 93.

ANNEX

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

1. PERSONS

1. ABOU, Rabah Naami (a.k.a. Naami Hamza; a.k.a. Mihoubi Faycal; a.k.a. Fellah Ahmed; a.k.a. Dafri Rème Lahdi) born 1.2.1966 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
2. ABOUD, Maisi (a.k.a. The Swiss Abderrahmane) born 17.10.1964 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
3. *ALBERDI URANGA, Itziar (E.T.A. Activist) born 7.10.1963 in Durango (Biscay), identity card No 78.865.693
4. *ALBISU IRIARTE, Miguel (E.T.A. Activist; Member of Gestoras Pro-amnistía) born 7.6.1961 in San Sebastián (Guipúzcoa), identity card No 15.954.596
5. AL-MUGHASSIL, Ahmad Ibrahim (a.k.a. ABU OMRAN; a.k.a. AL-MUGHASSIL, Ahmed Ibrahim) born 26.6.1967 in Qatif-Bab al Shamal, Saudi Arabia; citizen Saudi Arabia
6. AL-NASSER, Abdelkarim Hussein Mohamed, born in Al Ihsa, Saudi Arabia; citizen Saudi Arabia
7. AL YACoub, Ibrahim Salih Mohammed, born 16.10.1966 in Tarut, Saudi Arabia; citizen Saudi Arabia
8. *APAOLAZA SANCHO, Iván (E.T.A. Activist; Member of K.Madrid) born 10.11.1971 in Beasain (Guipúzcoa), identity card No 44.129.178
9. ARIOUA, Azzedine born 20.11.1960 in Costantine (Algeria) (Member of al-Takfir and al-Hijra)
10. ARIOUA, Kamel (a.k.a. Lamine Kamel) born 18.8.1969 in Costantine (Algeria) (Member of al-Takfir and al-Hijra)
11. ASLI, Mohamed (a.k.a. Dahmane Mohamed) born 13.5.1975 in Ain Taya (Algeria) (Member of al-Takfir and al-Hijra)
12. ASLI, Rabah born 13.5.1975 in Ain Taya (Algeria) (Member of al-Takfir and al-Hijra)
13. *ARZALLUS TAPIA, Eusebio (E.T.A. Activist) born 8.11.1957 in Regil (Guipúzcoa), identity card No 15.927.207
14. ATWA, Ali (a.k.a. BOUSLIM, Ammar Mansour; a.k.a. SALIM, Hassan Rostom), Lebanon, born 1960 in Lebanon; citizen Lebanon
15. *BERASATEGUI ESCUDERO, Ismael (E.T.A. Activist; Member of K. Behorburu) born 15.6.1969 in Eibar (Guipúzcoa), identity card No 15.379.555
16. DARIB, Nouredine (a.k.a. Carreto; a.k.a. Zitoun Mourad) born 1.2.1972 in Algeria (Member of al-Takfir and al-Hijra)
17. DJABALI, Abderrahmane (a.k.a. Touil) born 1.6.1970 in Algeria (Member of al-Takfir and al-Hijra)
18. *ECHEBERRIA SIMARRO, Leire (E.T.A. Activist) born 20.12.1977 in Basauri (Bizcay), identity card No 45.625.646
19. *ECHEGARAY ACHIRICA, Alfonso (E.T.A. Activist) born 10.1.1958 in Plencia (Bizcay), identity card No 16.027.051
20. *ELCORO AYASTUY, Paulo (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 22.10.1973 in Vergara (Guipúzcoa), identity card No 15.394.062
21. EL-HOORIE, Ali Saed Bin Ali (a.k.a. AL-HOURI, Ali Saed Bin Ali; a.k.a. EL-HOURI, Ali Saed Bin Ali) born 10.7.1965 alt. 11.7.1965 in El Dibabiya, Saudi Arabia; citizen Saudi Arabia
22. FAHAS, Sofiane Yacine born 10.9.1971 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
23. *FIGAL ARRANZ, Antonio Agustín (E.T.A. Activist; Member of Kas/Ekin) born 2.12.1972 in Baracaldo (Biscay), identity card No 20.172.692
24. *GOGEOASCOECHEA ARRONATEGUI, Eneko (E.T.A. Activist), born 29.4.1967 in Guernica (Biscay), identity card No 44.556.097
25. *GOIRICELAYA GONZALEZ, Cristina (E.T.A. Activist; Member of Herri Batasuna/E.H/Batasuna), born 23.12.1967 in Vergara (Guipúzcoa), identity card No 16.282.556

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

26. *IPARRAGUIRRE GUENECHEA, Ma Soledad (E.T.A. Activist) born 25.4.1961 in Escoriaza (Navarra), identity card No 16.255.819
27. *IZTUETA BARANDICA, Enrique (E.T.A. Activist) born 30.7.1955 in Santurce (Biscay), identity card No 14.929.950
28. IZZ-AL-DIN, Hasan (a.k.a. GARBAYA, AHMED; a.k.a. SA-ID; a.k.a. SALWWAN, Samir), Lebanon, born 1963 in Lebanon, citizen Lebanon
29. LASSASSI, Saber (a.k.a. Mimiche) born 30.11.1970 in Constantine (Algeria) (Member of al-Takfir and al-Hijra)
30. MOHAMMED, Khalid Shaikh (a.k.a. ALI, Salem; a.k.a. BIN KHALID, Fahd Bin Adballah; a.k.a. HENIN, Ashraf Refaat Nabith; a.k.a. WADOOD, Khalid Adbul) born 14.4.1965 alt. 1.3.1964 in Pakistan, passport No 488555
31. MOKTARI, Fateh (a.k.a. Ferdi Omar) born 26.12.1974 in Hussein Dey (Algeria) (Member of al-Takfir and al-Hijra)
32. *MORCILLO TORRES, Gracia (E.T.A. Activist; Member of Kas/Ekin) born 15.3.1967 in San Sebastián (Guipúzcoa), identity card No 72.439.052
33. MUGHNIYAH, Imad Fa'iz (a.k.a. MUGHNIYAH, Imad Fayiz), Senior Intelligence Officer of HIZBALLAH, born 7.12.1962 in Tayr Dibba, Lebanon, passport No 432298 (Lebanon)
34. *MUÑO A ORDOZGOITI, Aloña (E.T.A. Activist; Member of Kas/Ekin) born 6.7.1976 in Segura (Guipúzcoa), identity card No 35.771.259
35. *NARVÁEZ GOÑI, Juan Jesús (E.T.A. Activist) born 23.2.1961 in Pamplona (Navarra), identity card No 15.841.101
36. NOUARA, Farid born 25.11.1973 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
37. *ORBE SEVILLANO, Zigor (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 22.9.1975 in Basauri (Biscay), identity card No 45.622.851
38. *OTEGUI UNANUE, Mikel (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 8.10.1972 in Itsasondo (Guipúzcoa), identity card No 44.132.976
39. *PALACIOS ALDAY, Gorka (E.T.A. Activist; Member of K.Madrid), born 17.10.1974 in Baracaldo (Biscay), identity card No 30.654.356
40. *PEREZ ARAMBURU, Jon Iñaki (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 18.9.1964 in San Sebastián (Guipúzcoa), identity card No 15.976.521
41. *QUINTANA ZORROZUA, Asier (E.T.A. Activist; Member of K.Madrid), born 27.2.1968 in Bilbao (Biscay), identity card No 30.609.430
42. RESSOUS, Hoari (a.k.a. Hallasa Farid) born 11.9.1968 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
43. *RUBENACH ROIG, Juan Luis (E.T.A. Activist; Member of K.Madrid), born 18.9.1964 in Bilbao (Biscay), identity card No 18.197.545
44. *SAEZ DE EGUILAZ MURGUIONDO, Carlos (E.T.A. Activist; Member of Kas/Ekin) born 9.12.1963 in San Sebastián (Guipúzcoa), identity card No 15.962.687
45. SEDKAOUI, Noureddine (a.k.a. Nounou) born 23.6.1963 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
46. SELMANI, Abdelghani (a.k.a. Gano) born 14.6.1974 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
47. SENOUCI, Sofiane born 15.4.1971 in Hussein Dey (Algeria) (Member of al-Takfir and al-Hijra)
48. SISON, Jose Maria (a.k.a. Armando Liwanag, a.k.a. Joma, in charge of NPA) born 8.2.1939 in Cabugao, Philippines
49. TINGUALI, Mohammed (a.k.a. Mouh di Kouba) born 21.4.1964 in Blida (Algeria) (Member of al-Takfir and al-Hijra)
50. *URANGA ARTOLA, Kemen (E.T.A. Activist; Member of Herri Batasuna/E.H/Batasuna) born 25.5.1969 in Ondarroa (Biscay), identity card No 30.627.290
51. * VALLEJO FRANCO, Iñigo (E.T.A. Activist) born 21.5.1976 in Bilbao (Biscay), identity card No 29.036.694
52. *VILA MICHELENA, Fermín (E.T.A. Activist; Member of Kas/Ekin) born 12.3.1970 in Irún (Guipúzcoa), identity card No 15.254.214

2. GROUPS AND ENTITIES

1. Abu Nidal Organisation (ANO), (a.k.a. Fatah Revolutionary Council, Arab Revolutionary Brigades, Black September, and Revolutionary Organisation of Socialist Muslims)
 2. Al-Aqsa Martyr's Brigade
 3. Al-Takfir and Al-Hijra
 4. Aum Shinrikyo (a.k.a. AUM, a.k.a. Aum Supreme Truth, a.k.a. Aleph)
 5. Babbar Khalsa
 6. *Continuity Irish Republican Army (CIRA)
 7. *Euskadi Ta Askatasuna/Tierra Vasca y Libertad/Basque Fatherland and Liberty (E.T.A.) (The following organisations are part of the terrorist group E.T.A.: K.a.s., Xaki, Ekin, Jarrai-Haika-Segi, Gestoras pro-amnistía, Askatasuna, Batasuna (a.k.a. Herri Batasuna, a.k.a. Euskal Herritarrok))
 8. Gama'a al-Islamiyya (Islamic Group), (a.k.a. Al-Gama'a al-Islamiyya, IG)
 9. *Grupos de Resistencia Antifascista Primero de Octubre/Antifascist Resistance Groups First of October (G.R.A.P.O.)
 10. Hamas-Izz al-Din al-Qassem (terrorist wing of Hamas)
 11. Holy Land Foundation for Relief and Development
 12. International Sikh Youth Federation (ISYF)
 13. Kahane Chai (Kach)
 14. Kurdistan Workers' Party (PKK)
 15. Lashkar e Tayyaba (LET)/Pashan-e-Ahle Hadis
 16. *Loyalist Volunteer Force (LVF)
 17. Mujahedin-e Khalq Organisation (MEK or MKO) (minus the 'National Council of Resistance of Iran' (NCRI)) (a.k.a. The National Liberation Army of Iran (NLA, the militant wing of the MEK), the People's Mujahidin of Iran (PMOI), Muslim Iranian Student's Society)
 18. New Peoples Army (NPA), Philippines, linked to Sison Jose Maria C. (a.k.a. Armando Liwanag, a.k.a. Joma, in charge of NPA)
 19. *Orange Volunteers (OV)
 20. Palestine Liberation Front (PLF)
 21. Palestinian Islamic Jihad (PIJ)
 22. Popular Front for the Liberation of Palestine (PFLP)
 23. Popular Front for the Liberation of Palestine-General Command, (a.k.a. PFLP-General Command, a.k.a. PFLP-GC)
 24. *Real IRA
 25. *Red Hand Defenders (RHD)
 26. Revolutionary Armed Forces of Colombia (FARC)
 27. *Revolutionary Nuclei/Epanastatiki Pirines
 28. *Revolutionary Organisation 17 November/Dekati Evdomi Noemvri
 29. Revolutionary People's Liberation Army/Front/Party (DHKP/C), (a.k.a. Devrimci Sol (Revolutionary Left), Dev Sol)
 30. *Revolutionary Popular Struggle/Epanastatikos Laikos Agonas (ELA)
 31. Shining Path (SL) (Sendero Luminoso)
 32. *Ulster Defence Association/Ulster Freedom Fighters (UDA/UFF)
 33. United Self-Defense Forces/Group of Colombia (AUC) (Autodefensas Unidas de Colombia)
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