

English edition

Legislation

Contents

I Acts whose publication is obligatory

- Commission Regulation (EC) No 2425/95 of 16 October 1995 altering the rates of the refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex II to the Treaty 1
- * Commission Regulation (EC) No 2426/95 of 16 October 1995 imposing a provisional anti-dumping duty on imports of certain magnetic disks (3,5" microdisks) originating in the United States, Mexico and Malaysia 3
- * Commission Regulation (EC) No 2427/95 of 16 October 1995 amending Regulation (EC) No 1921/95 laying down detailed rules for the application of the system of import licences for products processed from fruit and vegetables 12
- * Commission Regulation (EC) No 2428/95 of 16 October 1995 on an invitation to tender for the refund on export of wholly milled medium grain and long grain A rice to certain third countries 19
- * Commission Regulation (EC) No 2429/95 of 16 October 1995 on an invitation to tender for the refund on export of wholly milled round grain rice to certain third countries 22
- * Commission Regulation (EC) No 2430/95 of 16 October 1995 opening an invitation to tender for the refund on export of wholly milled medium grain and long grain A rice to certain third countries 25
- Commission Regulation (EC) No 2431/95 of 16 October 1995 concerning the issue of import licences for certain preserved mushrooms originating in countries other than China, Bulgaria, Poland and Romania 28

| | |
|--|----|
| Commission Regulation (EC) No 2432/95 of 16 October 1995 on the issuing of export licences for products processed from fruit and vegetables..... | 29 |
| Commission Regulation (EC) No 2433/95 of 16 October 1995 adopting interim protective measures on applications for STM licences in the beef and veal sector submitted for trade with Spain on 16 October 1995 | 30 |
| Commission Regulation (EC) No 2434/95 of 16 October 1995 amending representative prices and additional duties for the import of certain products in the sugar sector | 31 |
| Commission Regulation (EC) No 2435/95 of 16 October 1995 establishing the standard import values for determining the entry price of certain fruit and vegetables | 33 |
| * Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road | 35 |

II *Acts whose publication is not obligatory*

Commission

Administrative Commission of the European Communities on Social Security for Migrant Workers

95/419/EC :

| | |
|--|----|
| * Decision No 156 of 7 April 1995 concerning the rules of priority with regard to sickness and maternity insurance | 41 |
|--|----|

95/420/EC :

| | |
|---|----|
| * Commission Decision of 19 July 1995 amending Decision 82/43/EEC relating to the setting up of an Advisory Committee on Equal Opportunities for Women and Men..... | 43 |
|---|----|

Corrigenda

| | |
|---|----|
| Corrigendum to Commission Regulation (EC) No 2411/95 of 12 October 1995 suspending the advance fixing of export refunds on beef and veal (OJ No L 246 of 13. 10. 1995)..... | 47 |
|---|----|

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2425/95

of 16 October 1995

altering the rates of the refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex II to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1101/95 ⁽²⁾, and in particular Article 17 ⁽⁵⁾ thereof,

Whereas the rates of the refunds applicable from 1 June 1995 to the products listed in the Annex, exported in the form of goods not covered by Annex II to the Treaty, were fixed by Commission Regulation (EC) No 2302/95 ⁽³⁾;

Whereas it follows from applying the rules and criteria contained in Regulation (EC) No 2302/95 to the informa-

tion at present available to the Commission that the export refunds at present applicable should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION :

Article 1

The rates of refund fixed by Regulation (EC) No 2302/95 are hereby altered as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 October 1995.

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

Done at Brussels, 16 October 1995.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 233, 30. 9. 1995, p. 40.

ANNEX

to the Commission Regulation of 16 October 1995 amending the rates of the refunds applicable to certain products in the sugar sector exported in the form of goods not covered by Annex II to the Treaty

| Product | Rate of refund in ECU/100 kg | |
|---|--|--|
| | In case of advance fixing of refunds | Other |
| White sugar | 39,74 | 41,62 |
| Raw sugar | 36,56 | 38,29 |
| Syrups of beet sugar or cane sugar, other than the syrups obtained by dissolving white or raw sugar in the solid state, containing, in the dry state, 85 % or more by weight of sucrose (including invert sugar expressed as sucrose) | $\frac{39,74^{(*)} \times S^{(*)}}{100}$ | $\frac{41,62^{(*)} \times S^{(*)}}{100}$ |
| For syrups obtained by dissolving white or raw sugar in the solid state, whether or not the dissolving is followed by inversion | the rate fixed above for 100 kg of white or raw sugar used for the dissolution | |
| Molasses | — | — |
| Isoglucose ^(?) | 39,74 ^(?) | 41,62 ^(?) |

(¹) 'S' represents in 100 kilograms of syrup

- the sucrose content (including invert sugar expressed as sucrose) of the syrup in question, where the latter is not less than 98 % pure,
- the extractable sugar content of the syrup in question, where the latter is not less than 85 %, but less than 98 % pure.

(²) Products obtained by isomerization of glucose, which have a content by weight in the dry state of at least 41 % fructose and of which the total content by weight in the dry state of polysaccharides and oligosaccharides, including the di- or trisaccharides content, does not exceed 8,5 %.

(³) Amount of refund per 100 kilograms of dry matter.

(⁴) The basic amount is not applicable to the product defined under point 2 of the Annex to Commission Regulation (EEC) No 3513/92 (OJ No L 355, 5. 12. 1992, p. 12).

COMMISSION REGULATION (EC) No 2426/95

of 16 October 1995

imposing a provisional anti-dumping duty on imports of certain magnetic disks (3,5" microdisks) originating in the United States, Mexico and Malaysia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3283/94 of 22 December 1994 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as last amended by Regulation (EC) No 1251/95⁽²⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas :

A. PROCEDURE

(1) In September 1994, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of an anti-dumping proceeding concerning imports into the Community of certain magnetic disks (3,5" microdisks) originating in the United States, Mexico and Malaysia, and commenced an investigation.

The proceeding was initiated as a result of a complaint lodged by the Committee of European Diskette Manufacturers (Diskma) on behalf of producers whose collective output of 3,5" microdisks represented a major proportion of Community production of these microdisks.

The complaint contained evidence of dumping of the product originating in the countries indicated above, and of material injury resulting therefrom; this evidence was considered sufficient to justify opening a proceeding.

(2) The Commission officially advised the producers, exporters and importers known to be concerned, the representatives of the exporting countries, and the complainant, and gave the parties concerned the opportunity to make their views known in writing and to request a hearing.

A number of producers in the countries concerned and importers in the Community made their views known. All parties who so requested were granted a hearing.

(3) The Commission sent questionnaires to parties known to be concerned and received detailed infor-

mation from the complainant Community producers, certain producers in the United States, Mexico and Malaysia and those importers in the Community related to producers in the countries concerned.

(4) The Commission carried out investigations at the premises of the following firms :

(a) *Complainant Community producers :*

- Belgium :
 - Sentinel Computer Products Europe, NV, Wellen,
 - Supply House BVBA, Wellen ;
- France :
 - R.P.S. Media SA, Albi,
 - R.P.S. International SA, Noisy-le-Grand,
 - Sentinel France, Boulogne ;
- Germany :
 - Boeder AG, Flörsheim am Main ;
- Italy :
 - Computer Support Italy srl, Verderio Inferiore ;

(b) *American producers :*

- TDK Electronics Corporation, Port Washington,
- 3M, Minneapolis,
- Verbatim, Charlotte ;

(c) *Mexican producer :*

- Industria Fotográfica Interamericana SA, Guadalajara ;

(d) *Malaysian producers :*

- Discomp Magnetics Ltd, Kuala Lumpur,
- Mega High Tech Ltd, Penang ;

(e) *Related importers :*

- France :
 - 3M France, Cergy-Pontoise,
 - Verbatim France SARL, Rueil ;
- Germany :
 - 3M Deutschland GmbH, Neuss,
 - Discomp Magnetics GmbH, Stutensee,
 - Verbatim GmbH, Eschborn,
 - TDK Electronics Europe GmbH, Ratingen ;

⁽¹⁾ OJ No L 349, 31. 12. 1994, p. 1.

⁽²⁾ OJ No L 122, 2. 6. 1995, p. 1.

⁽³⁾ OJ No C 246, 2. 9. 1994, p. 4.

- Ireland :
 - Verbatim Ltd, SA, Limerick ;
 - Italy :
 - 3M Italia SpA, Milano,
 - Verbatim Italia SpA, Milano,
 - TDK Italia SpA, Milano ;
 - Luxembourg :
 - TDK Recording Media Europe SA ;
 - Netherlands :
 - 3M Distribution Services International (DSI) BV, Breda,
 - 3M Netherland, Leiden ;
 - Spain :
 - Verbatim España SA, Barcelona ;
 - United Kingdom :
 - Verbatim Ltd, Egham,
 - TDK UK Ltd, Redhill,
 - 3M UK plc, Bracknell.
- (5) The investigation of dumping covered the period from 1 August 1993 to 31 July 1994, 'the investigation period'.
- (6) Owing to the volume and complexity of the data gathered and examined, the investigation has exceeded the normal time period of one year.
- (7) Following two prior anti-dumping proceedings on imports of certain magnetic disks (3,5" microdisks) originating in Japan, Taiwan and the People's Republic of China, and originating in Hong Kong and the Republic of Korea, hereinafter referred to as 'the prior proceedings', definitive anti-dumping duties were imposed in October 1993 by Council Regulation (EEC) No 2861/93⁽¹⁾, and in September 1994 by Regulation (EC) No 2199/94⁽²⁾ respectively.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Description of the product concerned

- (8) The product covered by the complaint, and for which the proceeding was opened, was 3,5" microdisks, used to record and store digital computer information (CN code ex 8523 20 90).
- (9) The microdisks concerned were available in various types, depending on their storage capacity and on the way in which they were marketed. However, no significant differences existed in the basic physical characteristics and technology of the various types of microdisk, all of which, in addition, showed a high degree of interchangeability.
- (10) In these circumstances, and in line with the position previously adopted by the Council, all 3,5" microdisks should be considered as one product for the purposes of this proceeding.

2. Like product

- (11) The investigation showed that the various types of microdisks concerned sold on the domestic markets in the United States, Mexico and Malaysia were alike to those exported from those countries to the Community.
- (12) Similarly, the various types of microdisks manufactured in the Community and those exported to the Community from the countries in question use the same basic technology and are alike in their essential physical characteristics and end-uses. They have, therefore, to be considered as a like product in accordance with Article 1 (4) of Regulation (EC) No 3283/94 (hereinafter referred to as 'the Basic Regulation').

C. DUMPING

1. United States, Mexico

- (13) The Commission found it unnecessary to establish whether dumping by the cooperating producers in the United States and Mexico existed, since the injury margins established for these producers, as described in recital (53), were found to be *de minimis*.

2. Malaysia

(a) Normal value

- (14) For one cooperating producer, normal value was established, in accordance with Article 2 (1) of the Basic Regulation, on the basis of the price actually paid in the ordinary course of trade for domestic sales of the like product, which were made in sufficient quantities to permit a proper comparison.
- (15) The other cooperating producer had insufficient sales on the Malaysian market (that is, less than 5 % of the quantities exported to the Community) to permit a proper comparison under Article 2 (2) of the Basic Regulation. Normal value was, therefore, calculated on the basis of the verified costs of

⁽¹⁾ OJ No L 262, 21. 10. 1993, p. 4.

⁽²⁾ OJ No L 236, 10. 9. 1994, p. 2.

production of the producer concerned plus a reasonable amount for selling, general and administrative expenses and profit. This amount was established by reference to the expenses incurred and the profit realized by the other cooperating producer for domestic sales of the like product in the ordinary course of trade.

(b) **Export price**

- (16) Export price was generally established on the basis of the price actually paid or payable for the product concerned when sold for export to the Community.
- (17) In the case of sales made by one cooperating producer in Malaysia to its related importer in the Community, export prices were constructed, in accordance with Article 2 (9) of the Basic Regulation, on the basis of the price at which the imported product was first resold to an independent buyer in the Community. In constructing the export prices, adjustments were made for all costs incurred between importation and resale and for a profit margin of 5 %, which is provisionally considered to be reasonable on the basis of the profits made by independent importers in this sector.

(c) **Comparison**

- (18) The weighted-average normal value, by product type, was compared with the weighted-average export price for the corresponding type at the same level of trade and on an ex-works basis. For the purposes of a fair comparison, adjustment were made, in accordance with Article 2 (10) of the Basic Regulation, in respect of differences in factors which were claimed, and demonstrated, to affect prices and therefore price comparability.
- (19) Claims by one producer for adjustment to normal value in respect of differences in selling expenses, namely promotion and brand expenses, were disallowed, since it was not demonstrated that the alleged differences affected price comparability.
- (20) One producer claimed an adjustment for differences in levels of trade arising from the fact that part of its export sales were on an OEM basis while its domestic sales were at a different level of trade. When examining this claim, the Commission found that the adjustment could be granted, since the OEM export sales were made to a company involved in manufacturing, and the export price levels for the transactions concerned were significantly and consistently below own-brand export

sales at the nearest level of trade. These preliminary tests being met, and as normal value had to be constructed for this producer given the non-representative nature of its domestic sales, the Commission made an adjustment to normal value in respect of OEM sales, based on the addition to its costs of production of the selling, general administrative expenses incurred and the profit realized by the other cooperating producer on domestic sales made at a level of trade equivalent to that of OEM sales, which were found to be made at prices significantly and consistently lower than prices of own-brand domestic sales.

3. Dumping margins

(a) **Cooperating producers**

- (21) As far as the cooperating producers in the United States and Mexico are concerned, no dumping margins were established for the reasons outlined in recital (13).
- (22) As far as the cooperating producers in Malaysia are concerned, the comparison shows the existence of dumping, the dumping margins being equal to the amount by which the normal value, as established, exceeds the price for export to the Community. The weighted average dumping margins for each producer expressed as a percentage of the free-at-Community-frontier price are as follows:

Mega High Tech : 26,8 %

Discomp : 46,4 %.

(b) **Non-cooperating producers**

- (23) For those producers in the countries concerned which neither replied to the Commission's questionnaire nor otherwise made themselves known, the dumping margin was determined on the basis of the facts available in accordance with Article 18 of the Basic Regulation.
- (24) The Commission noted in particular that the exports reported by the cooperating producers accounted for approximately 60 % of total imports into the Community of the product concerned originating in the United States. 35 % in the case of Mexico and 68 % in the case of Malaysia. Furthermore, the level of export prices for transactions by non-cooperating producers was found, on the basis of information derived from Eurostat, to be greatly below the prices charged by the exporters having cooperated with the investigation and, when compared to those of the Community industry, showed large undercutting margins.

In the light of the substantial level of exports not covered by the investigation and the seriousness of the non-cooperation on the part of the producers concerned, the Commission considered it essential neither to provide a bonus for non-cooperation nor to discriminate against those producers which had cooperated. In view of the lack of reliable information from other sources, and the need to ensure that the measures introduced constitute effective protection for the Community industry from unfair trade, it was considered appropriate, for the provisional determination, to establish the dumping margin for non-cooperating producers at either the highest dumping margin found during the investigation for a producer in Malaysia, or the dumping margin alleged for those countries by the complainant, whichever was the higher. On this basis, the provisional dumping margins applicable to non-cooperating producers has been established at 44 % for the United States and Mexico and 46,4 % for Malaysia. The results of the investigation generally appear to confirm the reliability of the allegations of the complaint on the magnitude of these dumping margins.

D. COMMUNITY INDUSTRY

- (25) Information was sought from all known producers of the product concerned in the Community. The Commission also took into consideration, as it had done in the prior proceedings, the fact that some of the producers in the Community were related to producers in the countries concerned by those prior proceedings, and were found to be dumping and causing material injury thereby.
- (26) As in the prior proceedings, the Commission found that the assessment of the effects of the dumped imports originating in the United States, Malaysia and Mexico would be distorted if Community producers related to those producers found to be dumping the like product, and causing material injury to the complainant, were not excluded from the definition of the 'Community industry'.
- (27) In the course of its investigation, the Commission found that one of the complainant companies, Datarex, was unable to provide the information sought by the Commission to substantiate the injury. The Commission, therefore, has excluded this company from the definition of the 'the Community industry' for the purpose of its injury determination.
- (28) On the basis of the above consideration, the share of the total Community production held by the complainant producers during the investigation period amounted to at least 90 %. It is confirmed, therefore, that the complainant represented a major

proportion of total Community production of the product concerned.

E. INJURY

- (29) It has to be noted that the Council, in Regulations (EEC) No 2861/93 and (EC) No 2199/94, found that the Community industry was suffering material injury from the effects of the dumped imports from Japan, Taiwan, the People's Republic of China, Hong Kong and the Republic of Korea. In the present proceeding, the Commission examined whether the dumped imports of the like product from the United States, Mexico and Malaysia also contributed to the material injury to the Community industry.

1. Cumulation of the effects of the dumped imports

- (30) In establishing the impact of the dumped imports from the United States, Malaysia and Mexico on the Community industry, the Commission has considered the effect of all dumped imports from the countries concerned. In analysing whether cumulation of these imports is appropriate, pursuant to Article 3 (4) of the Basic Regulation, the Commission has considered the fact that the margin of dumping established in relation to the imports from each country was very much more than *de minimis* (44 %, 46,4 % and 44 % respectively), and that the volume of imports from each country is not negligible in the meaning of Article 5 (7) of the Basic Regulation, (their respective market shares attaining 19,1 %, 5,4 %, and 2,3 %). In addition, the Commission has examined the conditions of competition between imported products, and between imported products and the like Community product on the basis of the following criteria: similarity of physical characteristics, interchangeability of end-uses, scale of the volumes imported, and competition on the Community market simultaneous with the like product manufactured by the Community industry, and similarity of channels of distribution and price behaviour in the Community market of the producers in the countries concerned.
- (31) After examination of the facts, it was found that the 3,5" microdisks imported from the countries concerned were, on a type-by-type basis, alike in all respects, interchangeable and marketed in the Community within a comparable period and under similar commercial policies. These imports competed with each other and with the like product manufactured by the Community industry. It was also found that there was no clear distinction as to pricing in the Community between the producers in the countries concerned.

In these circumstances, and in accordance with the standard practice of the Community institutions, it was considered that there were sufficient grounds to cumulate the imports from the countries concerned.

2. Community consumption, volume and market share of the dumped imports

The Commission has relied on the methodology adopted in the prior proceedings. On this basis, Community consumption was 398 million units in 1990, 582 million in 1991, 788 million in 1992, 1 054 million in 1993 and 1 335 million in the investigation period, i. e. growth of 235 % between 1990 and the investigation period. The volume of dumped imports into the Community of the product concerned originating in the United States, Malaysia and Mexico was 100 million units in 1990, 146 million in 1991, 185 million in 1992, 252 million in 1993 and 357 million in the investigation period — that is, an increase in dumped imports of 256 % between 1990 and the investigation period.

- (32) The development of these imports, assessed in the light of Community apparent consumption, led to a combined share of the Community market held by the United States, Malaysia and Mexico of 25,2 % in 1990, 25 % in 1991, 23,4 % in 1992, 23,9 % in 1993 and 26,8 % in the investigation period.

3. Prices of the dumped imports

- (33) Price undercutting was established, for each of the producers investigated in the countries concerned, by comparing their weighted average prices for sales to the first independent customer in the Community with the weighted average prices of the Community industry. In general, the comparison was made for the markets of France, Germany, Italy, the United Kingdom and Spain, which together represent most of the Community market for the product concerned, and to which the majority of the dumped imports in question were delivered. The comparison was made separately for each of the product types imported which were considered for the determination as to dumping.
- (34) The result of the above comparison showed insignificant margins of undercutting for the cooperating producers in the United States and Mexico. As far as Malaysia was concerned, the weighted average undercutting margins ranged from 8 % to 25 % for the cooperating producers.
- (35) The Commission also sought to establish the extent of undercutting for those producers in the coun-

tries concerned which did not cooperate with its investigation, on the basis of information on export price derived from official statistics on the volume and value of the imports concerned. This examination showed undercutting margins for non-cooperating producers of more than 100 % for imports originating in each of the countries concerned.

4. Situation of the Community industry

(a) Production and capacity utilization

- (36) The volume of production of the product concerned by the Community industry increased from 48 million in 1990, to 69 million in 1991, 105 million in 1992, 177 million in 1993 and 230 million in the investigation period — an absolute increase of 379 % over the period from 1990. Capacity utilization rates went from 60 % in 1990, 76 % in 1991, 57 % in 1992, 62 % in 1993 and to around 86 % in the investigation period.

(b) Sales and market shares

- (37) The Community industry's sales increased from 44 million units in 1990 to 198 million units in the investigation period, thus following the rapid expansion of the Community consumption for the product concerned.

It has to be added, however, that the investment decisions made by the Community industry to meet increases in demand at a time of rapid market growth did not yield the expected results, owing to the dumped imports. The Community industry's share of the Community market, although growing from 11,2 % to 14,9 % between 1990 and the investigation period, was below the level that could have been anticipated when the decisions to expand capacity were made. It should be noted further that the Community industry actually experienced a slight erosion of its market share between 1993 and the investigation period, from 15,0 % to 14,9 %.

(c) Prices

- (38) Complainant Community producer's prices fell overall by 44 % between 1990 and the investigation period. In general, the level of prices charged by the Community industry in that period, in its effort to achieve reasonable levels of capacity utilization and market share, did not permit a reasonable level of profit to be made.

(d) Profitability

- (39) The development of prices and production costs resulted in losses from 1990 onwards for the majority of the Community producers concerned. In the investigation period, the average profit situation of the Community industry was just above the break-even point. On an individual basis, one Community producer incurred severe financial losses, while for the others the return on sales was insufficient to recover the costs of investment already incurred, and to support the further investment necessary to ensure a continued presence in this rapidly evolving, high-technology sector.

5. Conclusions on injury

- (40) In the light of the remarks at recital (29) above, and the foregoing analysis, the Commission provisionally finds that the Community industry is suffering material injury.

In its essentials, the situation remains as set out in recital 62 of the Commission Regulation (EEC) No 920/93⁽¹⁾ and recital (43) of Regulation (EC) No 534/94⁽²⁾ imposing provisional anti-dumping duties in the prior proceedings. Although certain quantitative indicators, such as production, sales and capacity utilization showed positive development, due in large measure to the expansion of the market, the benefit of this positive development has been totally offset by the low levels of prices which remained below the levels necessary for the generation of profits adequate to finance the investments needed to allow the Community industry to keep pace with the swiftly changing conditions evident in the area of information technology.

Finally, it should be noted that the evaluation of the above factors has to be seen in the light of the fact that the Community industry was, at the time of the examination, in the process of recovering from the effects of past dumping, as established in the prior proceedings.

F. CAUSATION OF INJURY

- (41) The Commission examined whether the material injury suffered by the Community industry had been caused by the dumped imports from the USA, Malaysia and Mexico, and whether other factors may have caused or contributed to that injury.

1. Effect of the dumped imports from the United States, Malaysia and Mexico

- (42) In its examination, the Commission found that the increasing volume of the dumped imports, in absolute terms, (an increase at a rate slightly faster than that of consumption) corresponded to a stable market share for most of the period examined, at a level which could be qualified as very substantial, ranging from 23,4 % to 26,8 %. The strong presence of the dumped imports could not fail to have had very negative consequences for the Community industry since it was found that, with the exception of imports from the cooperating producers in the United States and Mexico, the prices of these imports undercut the prices of the Community industry by margins which were always substantial. This situation coincided in time with a continuing precarious financial situation for the Community industry, which had to align its prices downwards in an attempt to resist the pressure of the dumped imports and to capture a viable share of the Community market with a level of production allowing the economic employment of resources. The resulting price depression has led to the general lack of profitability referred to in recital (39) above.

2. Effects of other factors

- (43) The Commission considered whether factors other than dumped imports from the countries concerned might have caused, or contributed to, the injury suffered by the Community industry. In particular, the Commission examined the argument of one cooperating US producer that imports from countries not covered by this proceeding were responsible for any injury suffered by the Community industry, and that injury for one Community producer might have been due to internal factors bearing no relationship to the dumped imports.
- (44) As regards imports from countries other than those concerned by this proceeding, the Council has already determined that imports of the like product from Japan, Taiwan, the People's Republic of China, Hong Kong and Korea were dumped and had caused material injury to the Community industry.

As to other countries, their share of the Community market varied somewhat over the period considered. As to the level of prices of imports from these countries, no conclusions can be drawn from the information made available to the Commission during the preliminary investigation.

⁽¹⁾ OJ No L 95, 21. 4. 1993, p. 5.

⁽²⁾ OJ No L 68, 11. 3. 1994, p. 5.

In any event, even if it were assumed that imports from countries other than those subject to this proceeding and the prior proceedings had caused some injury to the Community industry, this would not alter the fact that the injury caused by the dumped imports concerned by this proceeding, taken in isolation, is material.

As to the contention that the unhealthy financial situation of one Community producer bore no relationship to the dumped imports, it is reasonable to assume that, without the effect of dumping the Community producer's position would have improved as a result of the remedial effect of the duties imposed in the prior proceedings.

- (45) In the circumstances, the Commission concludes, for the purposes of provisional findings that, notwithstanding the injury found to have been caused by dumped imports from Japan, Taiwan, the People's Republic of China, Hong Kong and the Republic of Korea, the dumped imports from the United States, Malaysia and Mexico, because of their low prices and their share of the Community market, have, taken in isolation, caused material injury to the Community industry.

G. COMMUNITY INTEREST

- (46) In assessing the Community interest, two basic elements have to be taken into account. The first is that special consideration has to be given to the need to eliminate the trade-distorting effects of injurious dumping and to restore effective competition. Secondly, failure to take provisional measures in the present proceeding would aggravate the already precarious situation of the Community industry, marked particularly by a lack of profitability. This has put the continued existence of this industry at considerable risk. Should this industry be forced to cease production, the Community would become almost wholly dependent on third-country sources of supply in a rapidly developing area of increasing technological significance. Further, this could entail serious consequences for Community manufacturers of components for 3,5" microdisks.
- (47) It should also be noted that in two prior proceedings, the Council found it in the Community interest to impose anti-dumping duties on imports of the like product from Japan, Taiwan, the People's Republic of China, Hong Kong and the Republic of Korea; no further information that would lead to a change in the earlier findings has since

become available. Further, the Community interest requires that, in order to avoid discrimination between countries found to have been dumping and causing material injury, protective measures be introduced with regard to imports of the dumped 3,5" microdisks subject to this proceeding.

- (48) Notwithstanding, however, the fact that the Commission received no specific information or submissions regarding Community interest, it examined the potential effects of protective measures on users and on the supply to the Community market on an overall basis.

As to the interests of consumers, and in particular the software industry, any short-term price advantages have to be weighed against the longer-term effects of not restoring fair competition. Indeed, to refrain from taking action would seriously threaten the viability of the Community industry, the disappearance of which would, in fact, reduce supply and competition, to the detriment of consumers, including the software houses.

Further, while it is true that, given the current level of capacity utilization in the Community, imports are necessary to meet the quickly increasing demand on the Community market, anti-dumping measures merely remove the injurious effects of dumping and are not, therefore, an obstacle to filling the gap in demand with supplies from third countries at fair prices; for, where the level of the anti-dumping measures is equal to the dumping margin but lower than the amount required to fully remove the injury, it is only the unfair element in the exporters' price advantage that is eliminated. In these circumstances, imports would still compete on the basis of true competitive advantage and exporters would be unlikely, therefore, to experience diminished access to the Community market.

- (49) After consideration of the various interests involved, it is provisionally found that the adoption of measures in the present case will re-establish fair competition by eliminating the injurious effects of dumping practices, and will afford the Community industry the opportunity of maintaining and developing this essential technology. In addition, some safeguards will be offered to the component supply industry in the Community.
- (50) The Commission finds, therefore, that it is in the Community interest to adopt anti-dumping measures in order to prevent further injury being caused by the dumped imports concerned during the investigation.

H. DUTY

- (51) The Commission considers that the measures should take the form of provisional *ad valorem* duties. For the purpose of establishing the level of the provisional duties, the Commission took account of the dumping margins found and of the amount of duty necessary to eliminate the injury sustained by the Community industry.
- (52) Since the injury consists principally of price depression, suppression of market share and, in particular, lack of profitability or losses, the removal of such injury requires that the industry should be able to increase prices to profitable levels without loss of sales volume. In order to achieve this, the prices of the dumped imports concerned should be increased to eliminate injurious dumping.

For calculating the necessary price increase, the Commission considered that the actual prices of these imports had to be compared to selling prices that reflect the costs of production of the complainant Community producers, plus a reasonable amount of profit.

- (53) To that end, the Commission has used the representative production costs of the complainant industry, together with the amount of profit used in the previous proceeding, namely a margin of 12 % on turnover required to ensure the viability of the Community industry, and which the industry could be expected to attain in the absence of dumped imports.

The resultant prices based on these costs and profits were compared with the prices of the dumped imports used to establish undercutting, as outlined in recital (33).

The differences between those two prices established on a weighted average basis and expressed as a percentage of the free-at-Community-frontier price, were found to be *de minimis* for the cooperating producers in the United States and Mexico. As far as cooperating Malaysian producers, Mega High Tech and Discomp, were concerned, these differences amounted to 13 % and 24,8 %. No provisional duties should, therefore, be imposed on imports of the like product manufactured and exported by the cooperating American and Mexican producers, while the provisional duties imposed on the Malaysian producers should be limited to the injury margins established above, which are below the dumping margins provisionally established.

- (54) In establishing the level of duty for producers in the United States, Malaysia and Mexico which neither replied to the Commission's questionnaire nor otherwise made themselves known, the Commission considers it appropriate, for the reasons outlined in recital (24), to establish the level

of provisional anti-dumping duty at the dumping margin established in recital (24) for imports originating in the countries concerned, namely 44 %, 46,4 % and 44 % respectively.

- (55) In the interests of sound administration, a period should be fixed within which the parties concerned may make their views known and request a hearing. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of 3,5" microdisks used to record and store encoded digital computer information, falling within CN code ex 8523 20 90 (Taric code 8523 20 90*10), and originating in the United States of America, Malaysia and Mexico.

2. The rate of duty applicable to the net free-at-Community-frontier price, before duty, shall be as follows :

| Country | Rate of duty | Taric additional code |
|---------------|--------------|-----------------------|
| United States | 44 % | 8 857 |
| Mexico | 44 % | 8 857 |
| Malaysia | 46,4 % | 8 858 |

with the exception of imports which are manufactured and sold for export to the Community by the following companies which shall be subject to the rate of duty mentioned hereunder :

| Country and producer | Rate of duty | Taric additional code |
|----------------------|--------------|-----------------------|
| (a) United States : | | 8 853 |
| — 3M | 0 % | |
| — TDK | 0 % | |
| — Verbatim | 0 % | |
| (b) Mexico | | 8 854 |
| — Verbatim | 0 % | |
| (c) Malaysia | | |
| — Mega High Tech | 13 % | 8 855 |
| — Discomp | 24,8 % | 8 856 |

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

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

Article 2

Without prejudice to Article 20 of Regulation (EC) No 3283/94, the parties concerned may make known their

views and apply to be heard by the Commission within one month of the date of entry into force of this Regulation.

Article 3

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

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

Done at Brussels, 16 October 1995.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION REGULATION (EC) No 2427/95

of 16 October 1995

amending Regulation (EC) No 1921/95 laying down detailed rules for the application of the system of import licences for products processed from fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products produced from fruit and vegetables⁽¹⁾, as last amended by Commission Regulation (EC) No 2314/95⁽²⁾, and in particular Article 9 (2) thereof,

Whereas Commission Regulation (EC) No 1921/95 of 3 August 1995 laying down detailed rules for the application of the system of import licences for products produced from fruit and vegetables and repealing Regulations (EEC) No 2405/89 and (EEC) No 3518/86⁽³⁾ sets out in its Annex the list of products subject to import licences and the amounts of the security; whereas the presentation of that Annex may be ambiguous; whereas, therefore, it should be amended so that the description, CN code and the amount of the security for each product subject to import licences are clear; whereas certain CN codes in Article 6 of that Regulation should also be corrected;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Products Processed from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EC) No 1921/95 is hereby amended as follows :

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

Done at Brussels, 16 October 1995.

1. In Article 6, paragraph 1 is replaced by the following :

‘1. In the case of :

— peaches, apricots and pears falling within the CN code ex 2008,

and

— cherry juice falling within CN code ex 2009 80,

the applicant may indicate the CN codes in section 16 of his application for an import licence, in particular the following CN codes :

2008 40 51 and 2008 40 59 or 2008 40 71 and 2008 40 79 or 2008 50 61 and 2008 50 69 or 2008 50 71 and 2008 50 79 or 2008 70 61 and 2008 70 69 and 2008 70 71 and 2008 70 79 and ex 2009 80 35 and ex 2009 80 38 or 2009 80 71, ex 2009 80 86, 2009 80 89 and ex 2009 80 96.

These codes indicated on the application shall appear on the import licence.’

2. The Annex is replaced by the Annex hereto.

Article 2

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

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 49, 27. 2. 1986, p. 1.

⁽²⁾ OJ No L 233, 30. 9. 1995, p. 69.

⁽³⁾ OJ No L 185, 4. 8. 1995, p. 10.

ANNEX

ANNEX

List of products referred to in Articles 3 (1) and 5 (1)

| CN code | Description | Amount in ECU/100 kg net | Taric code |
|---------------|--|--------------------------------|------------|
| 0710 | Vegetables (uncooked or cooked by steaming or boiling in water), frozen : | | |
| | – Leguminous vegetables, shelled or unshelled : | | |
| 0710 21 00 | – – Peas (<i>Pisum sativum</i>) | 0,70 | |
| 0711 | Vegetables, provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption : | | |
| 0711 90 | – Other vegetables ; mixtures of vegetables : | | |
| | – – Vegetables : | | |
| | – – – Mushrooms : | | |
| 0711 90 40 | – – – – Of the genus <i>Agaricus</i> | 2,40 | |
| 0711 90 60 | – – – – Other | 2,40 | |
| 0806 | Grapes, fresh or dried : | | |
| 0806 20 | – Dried | | |
| | – – In immediate containers of a net capacity not exceeding 2 kg : | | |
| 0806 20 12 | – – – Sultanas | 2,40 | |
| 0806 20 18 | – – – Other | 2,40 | |
| | – – Other : | | |
| 0806 20 92 | – – – Sultanas | 2,40 | |
| 0806 20 98 | – – – Other | 2,40 | |
| 0811 | Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, whether or not containing added sugar or other sweetening matter : | | |
| 0811 10 | – Strawberries : | | |
| | – – Containing added sugar or other sweetening matter : | | |
| 0811 10 11 | – – – With a sugar content exceeding 13 % by weight : | | |
| | – – – – Whole | 0,70 | 10 |
| | – – – – Other | 0,70 | 90 |
| 0811 10 19 | – – – Other : | | |
| | – – – – Whole | 0,70 | 10 |
| | – – – – Other | 0,70 | 90 |
| 0811 10 90 | – – Other : | | |
| | – – – Whole | 2,40 | 10 |
| | – – – Other | 2,40 | 90 |
| 0811 20 | – Raspberries, blackberries, mulberries, loganberries, black-, white- or redcurrants and gooseberries : | | |
| | – – Containing added sugar or other sweetening matter : | | |
| ex 0811 20 11 | – – – With a sugar content exceeding 13 % by weight : | | |
| | – – – – Raspberries : | | |
| | – – – – – Whole | 0,70 | 11 |
| | – – – – – Other | 0,70 | 19 |

| CN code | Description | Amount in ECU/100 kg net | Taric code |
|---------------|--|--------------------------------|------------|
| ex 0811 20 19 | — — — Other : | | |
| | — — — — Raspberries : | | |
| | — — — — — Whole | 0,70 | 11 |
| | — — — — — Other | 0,70 | 19 |
| | — — Other : | | |
| 0811 20 31 | — — — Raspberries : | | |
| | — — — — Whole | 2,40 | 10 |
| | — — — — Other | 2,40 | 90 |
| 0811 90 | — Other : | | |
| | — — Containing added sugar or other sweetening matter : | | |
| | — — — With a sugar content exceeding 13 % by weight : | | |
| ex 0811 90 19 | — — — — Other | | |
| | — — — — — Sour cherries (<i>Prunus cerasus</i>) | 2,40 | 21 |
| | — — — — — Other cherries | 2,40 | 29 |
| | — — — Other | | |
| ex 0811 90 39 | — — — — Other : | | |
| | — — — — — Sour cherries (<i>Prunus cerasus</i>) | 2,40 | 21 |
| | — — — — — Other cherries | 2,40 | 29 |
| | — — Other : | | |
| 0811 90 75 | — — — — Sour cherries (<i>Prunus cerasus</i>) | 2,40 | |
| 0811 90 80 | — — — — Other cherries | 2,40 | |
| 0812 | Fruit and nuts, provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption : | | |
| 0812 10 00 | — Cherries : | | |
| | — — Sour cherries (<i>Prunus cerasus</i>) | 2,40 | 10 |
| | — — Other | 2,40 | 90 |
| 0812 20 00 | — Strawberries | 2,40 | |
| 0812 90 | — Other : | | |
| 0812 90 60 | — — Raspberries | 2,40 | |
| 0813 | Fruit, dried, other than that falling within CN codes 0801 to 0806 ; mixtures of nuts or dried fruits of this chapter : | | |
| 0813 20 00 | — Prunes | 1,50 | |
| 0813 30 00 | — Apples | 2,40 | |
| 2001 | Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid : | | |
| 2001 90 | — Other : | | |
| 2001 90 50 | — — Mushrooms : | | |
| | — — — Of the genus <i>Agaricus</i> | 2,40 | 10 |
| | — — — Other | 2,40 | 90 |

| CN code | Description | Amount in ECU/100 kg net | Taric code |
|---------------|--|--------------------------------|------------|
| 2002 | Tomatoes prepared or preserved otherwise than by vinegar or acetic acid | | |
| 2002 10 | – Tomatoes, whole or in pieces : | | |
| 2002 10 10 | – – Peeled | 0,70 | |
| 2002 10 90 | – – Other | 0,70 | |
| 2002 90 | – Other : | | |
| | – – With a dry matter content of less than 12 % by weight : | | |
| 2002 90 11 | – – – In immediate packings of a net content exceeding 1 kg | 0,70 | |
| 2002 90 19 | – – – In immediate packings of a net content not exceeding 1 kg | 0,70 | |
| | – – With a dry matter content of not less than 12 % but not more than 30 % by weight | | |
| 2002 90 31 | – – – In immediate packings of a net content exceeding 1 kg | 2,20 | |
| 2002 90 39 | – – – In immediate packings of a net content not exceeding 1 kg | 2,20 | |
| | – – With a dry matter content of more than 30 % by weight | | |
| 2002 90 91 | – – – In immediate packings of a net content exceeding 1 kg | 2,20 | |
| 2002 90 99 | – – – In immediate packings of a net content not exceeding 1 kg | 2,20 | |
| 2003 | Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid : | | |
| 2003 10 | – Mushrooms : | | |
| | – – Of the genus <i>Agaricus</i> | | |
| 2003 10 20 | – – – Provisionally preserved | 2,90 | |
| 2003 10 30 | – – – Other | 2,90 | |
| 2003 10 80 | – – Other | 2,90 | |
| 2004 | Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen : | | |
| 2004 90 | – Other vegetables and mixtures of vegetables : | | |
| 2004 90 50 | – – Peas (<i>Pisum sativum</i>) and immature beans of the species <i>Phaseolus</i> spp., in pod | 0,70 | |
| 2005 | Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen : | | |
| 2005 40 00 | – Peas (<i>Pisum sativum</i>) | 0,70 | |
| | – Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.): | | |
| ex 2005 59 00 | – – Other | | |
| | – – – French beans (<i>Phaseolus</i> spp.) | 0,70 | 10 |
| 2005 60 00 | – Asparagus | 2,40 | |
| 2007 | Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter : | | |
| 2007 99 | – – Other : | | |
| | – – – With a sugar content exceeding 30 % by weight : | | |
| | – – – – Other : | | |
| 2007 99 33 | – – – – – Of strawberries | 0,70 | |

| CN code | Description | Amount in ECU/100 kg net | Taric code |
|---------------|--|--------------------------------|------------|
| 2007 99 35 | — — — — Of raspberries | 0,70 | |
| | — — — With a sugar content exceeding 13 % but not exceeding 30 % by weight : | | |
| ex 2007 99 58 | — — — — Other : | | |
| | — — — — Of strawberries and/or raspberries | 0,70 | |
| ex 2007 99 98 | — — — — Other : | | |
| | — — — — Of strawberries and/or raspberries | 0,70 | |
| 2008 | Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included : | | |
| 2008 40 | — Pears : | | |
| | — — Not containing added spirit : | | |
| | — — — Containing added sugar, in immediate packings of net content exceeding 1 kg : | | |
| 2008 40 51 | — — — — With a sugar content exceeding 13 % by weight | 0,70 | |
| 2008 40 59 | — — — — Other | 0,70 | |
| | — — — Containing added sugar, in immediate packings of a net content not exceeding 1 kg : | | |
| 2008 40 71 | — — — — With a sugar content exceeding 15 % by weight | 0,70 | |
| 2008 40 79 | — — — — Other | 0,70 | |
| | — — — Not containing added sugar, in immediate packings of a net content : | | |
| 2008 40 91 | — — — — Of 4,5 kg or more | 0,70 | |
| 2008 40 99 | — — — — Of less than 4,5 kg | 0,70 | |
| 2008 50 | — Apricots : | | |
| | — — Not containing added spirit : | | |
| | — — — Containing added sugar in immediate packings of a net content exceeding 1 kg : | | |
| 2008 50 61 | — — — — With a sugar content exceeding 13 % by weight | 0,70 | |
| 2008 50 69 | — — — — Other | 0,70 | |
| | — — — Containing added sugar, in immediate packings of a net content not exceeding 1 kg : | | |
| 2008 50 71 | — — — — With a sugar content exceeding 15 % by weight | 0,70 | |
| 2008 50 79 | — — — — Other | 0,70 | |
| | — — — Not containing added sugar, in immediate packings of a net content : | | |
| 2008 50 92 | — — — — Of 5 kg or more | 0,70 | |
| 2008 50 94 | — — — — Of less than 5 kg, but not less than 4,5 kg | 0,70 | |
| 2008 50 99 | — — — — Of less than 4,5 kg | 0,70 | |
| 2008 60 | — Cherries : | | |
| | — — Not containing added spirit : | | |
| | — — — Containing added sugar, in immediate packings of a net content exceeding 1 kg : | | |
| 2008 60 51 | — — — — Sour cherries (<i>Prunus cerasus</i>) | 2,40 | |

| CN code | Description | Amount in ECU/100 kg net | Taric code |
|---------------|---|--------------------------------|------------|
| 2008 60 59 | — — — — Other | 2,40 | |
| | — — — — Containing added sugar, in immediate packings of a net content not exceeding 1 kg : | | |
| 2008 60 61 | — — — — Sour cherries (<i>Prunus cerasus</i>) | 2,40 | |
| 2008 60 69 | — — — — Other | 2,40 | |
| | — — — — Not containing added sugar, in immediate packings of a net content : | | |
| | — — — — — Of 4,5 kg or more : | | |
| 2008 60 71 | — — — — — Sour cherries (<i>Prunus cerasus</i>) | 2,40 | |
| 2008 60 79 | — — — — — Other | 2,40 | |
| | — — — — — Of less than 4,5 kg : | | |
| 2008 60 91 | — — — — — Sour cherries (<i>Prunus cerasus</i>) | 2,40 | |
| 2008 60 99 | — — — — — Other | 2,40 | |
| 2008 70 | — Peaches : | | |
| | — — Not containing added spirit : | | |
| | — — — Containing added sugar, in immediate packings of a net content exceeding 1 kg : | | |
| 2008 70 61 | — — — — With a sugar content exceeding 13 % by weight | 0,70 | |
| 2008 70 69 | — — — — Other | 0,70 | |
| | — — — — Containing added sugar, in immediate packings of a net content not exceeding 1 kg : | | |
| 2008 70 71 | — — — — — With a sugar content exceeding 15 % by weight | 0,70 | |
| 2008 70 79 | — — — — — Other | 0,70 | |
| 2008 80 | — Strawberries : | | |
| | — — Not containing added spirit : | | |
| 2008 80 50 | — — — Containing added sugar, in immediate packings of a net content exceeding 1 kg : | 0,70 | |
| 2008 80 70 | — — — Containing added sugar, in immediate packings of a net content not exceeding 1 kg : | 0,70 | |
| | — — — — Not containing added sugar, in immediate packings of a net content : | | |
| 2008 80 91 | — — — — — Of 4,5 kg or more | 0,70 | |
| 2008 80 99 | — — — — — Of less than 4,5 kg | 0,70 | |
| | — Other, including mixtures other than those falling withing CN code 2008 19 : | | |
| 2008 99 | — — Other : | | |
| | — — — Not containing added spirit : | | |
| | — — — — Containing added sugar, in immediate packings of a net content exceeding 1 kg : | | |
| ex 2008 99 49 | — — — — — Other : | | |
| | — — — — — — Raspberries | 0,70 | 20 |
| | — — — — — Containing added sugar, in immediate packings of a net content not exceeding 1 kg : | | |
| ex 2008 99 68 | — — — — — Other : | | |
| | — — — — — — Raspberries | 0,70 | 20 |
| | — — — — — Not containing added sugar : | | |
| ex 2008 99 99 | — — — — — Other : | | |
| | — — — — — — Raspberries | 0,70 | 25 |

| CN code | Description | Amount in ECU/100 kg net | Taric code |
|---------------|---|--------------------------------|------------|
| 2009 | Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter : | | |
| | – Orange juice : | | |
| 2009 11 | – – Frozen : | | |
| | – – – Of a density exceeding 1,33 g/cm ³ at 20 °C : | | |
| 2009 11 11 | – – – – Of a value not exceeding ECU 30 per 100 kg net weight | 1,40 | |
| 2009 11 19 | – – – – Other | 1,40 | |
| | – – – Of a density not exceeding 1,33 g/cm ³ at 20 °C : | | |
| 2009 11 99 | – – – – Other : | 1,40 | |
| 2009 19 | – – Other : | | |
| | – – – Of a density exceeding 1,33 g/cm ³ at 20 °C : | | |
| 2009 19 11 | – – – – Of a value not exceeding ECU 30 per 100 kg net weight | 1,40 | |
| 2009 19 19 | – – – – Other | 1,40 | |
| 2009 80 | – Juice of any other single fruit or vegetable : | | |
| | – – Of a density exceeding 1,33 g/cm ³ at 20 °C : | | |
| | – – – Other : | | |
| | – – – – Of a value not exceeding ECU 30 per 100 kg net weight | | |
| ex 2009 80 35 | – – – – – Of cherries | 0,70 | 30 |
| | – – – – – Other : | | |
| ex 2009 80 38 | – – – – – Of cherries | 0,70 | 30 |
| | – – Of a density not exceeding 1,33 g/cm ³ at 20 °C : | | |
| | – – – Other : | | |
| | – – – – Of a value exceeding ECU 30 per 10 kg net weight, containing added sugar | | |
| 2009 80 71 | – – – – – Cherry juice | 0,70 | |
| | – – – – – Other | | |
| | – – – – – With an added sugar content exceeding 30 % by weight : | | |
| ex 2009 80 86 | – – – – – – Cherry juice | 0,70 | |
| | – – – – – – With an added sugar content not exceeding 30 % by weight : | | |
| 2009 80 89 | – – – – – – Cherry juice | 0,70 | 30 |
| | – – – – – – Not containing added sugar | | |
| 2009 80 96 | – – – – – – Cherry juice | 0,70' | |

**COMMISSION REGULATION (EC) No 2428/95
of 16 October 1995**

**on an invitation to tender for the refund on export of wholly milled medium
grain and long grain A rice to certain third countries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1530/95 ⁽²⁾, and in particular Article 14 thereof,

Whereas examination of the balance sheet shows that exportable amounts of rice are currently held by producers; whereas this situation could affect the normal development of producer prices during the 1995/96 marketing year;

Whereas, in order to remedy this situation, it is appropriate to make use of export refunds to zones which may be supplied by the Community; whereas the special situation of the rice market makes it necessary to limit the quantities of rice benefiting from the refunds, and therefore to apply Article 14 of Regulation (EEC) No 1418/76 enabling the amount of refund to be fixed by tendering procedure;

Whereas it should be stated that the provisions of Commission Regulation (EEC) No 584/75 of 6 March 1975 laying down detailed rules for the application of the system of tendering for export refunds on rice ⁽³⁾, as last amended by Regulation (EC) No 299/95 ⁽⁴⁾, apply to this invitation to tender;

Whereas, in order to avoid disturbances on the markets of the producing countries, the invitation to tender should be limited to certain zones specified in the Annex to Commission Regulation (EEC) No 2145/92 ⁽⁵⁾, as amended by Regulation (EC) No 3304/94 ⁽⁶⁾;

Whereas 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

1. An invitation to tender is hereby opened, for the refund on export of wholly milled medium grain and

long grain A rice referred to in Article 14 of Regulation (EEC) No 1418/76, for Zones I, II (c), IV, V, VI and VIII (except Guyana, Madagascar and Suriname), as specified in the Annex to Regulation (EEC) No 2145/92.

2. The invitation to tender shall be open until 27 June 1996. During that period weekly invitations to tender shall be issued and the date for submission of tenders shall be determined in the notice of invitation to tender.

3. The invitation to tender shall take place in accordance with the provisions of Regulation (EEC) No 584/75 and with the following provisions.

Article 2

A tender shall be valid only if it covers a quantity for export of at least 50 tonnes but not more than 5 000 tonnes.

Article 3

The security referred to in Article 3 of Regulation (EEC) No 584/75 shall be ECU 20 per tonne.

Article 4

1. Notwithstanding the provisions of Article 21 (1) of Commission Regulation (EEC) No 3719/88 ⁽⁷⁾, export licences issued within this invitation to tender shall, for the purposes of determining their period of validity, be considered as having been issued on the day the tender was submitted.

2. The licences shall be valid from their date of issue, within the meaning of paragraph 1, until the end of the third month following.

Article 5

Tenders submitted must reach the Commission through the Member States not later than one and a half hours after expiry of the time limit for weekly submission of tenders as laid down in the notice of invitation to tender. They must be transmitted in accordance with the table given in the Annex.

If no tenders are submitted, the Member States shall inform the Commission accordingly within the same time limit as that given in the above subparagraph.

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 148, 30. 6. 1995, p. 5.

⁽³⁾ OJ No L 61, 7. 3. 1975, p. 25.

⁽⁴⁾ OJ No L 35, 15. 2. 1995, p. 8.

⁽⁵⁾ OJ No L 214, 30. 7. 1992, p. 20.

⁽⁶⁾ OJ No L 341, 30. 12. 1994, p. 48.

⁽⁷⁾ OJ No L 331, 2. 12. 1988, p. 1.

Article 6

The time set for submitting tenders shall be Belgian time.

Article 7

1. On the basis of tenders submitted, the Commission shall decide in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 1418/76:

- either to fix a maximum export refund, taking account of the criteria laid down in Article 14 of Regulation (EEC) No 1418/76,
- or not to take any action on the tenders.

2. Where a maximum export refund is fixed, an award shall be made to the tenderer or tenderers whose tenders are at or below the maximum export refund level.

Article 8

The time limit for submission of tenders for the first partial invitation to tender shall expire on 26 October 1995 at 10 a.m.

The final date for submission of tenders is hereby fixed at 27 June 1996.

Article 9

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

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

Done at Brussels, 16 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Weekly invitation to tender for the refund on export of wholly milled medium grain and long grain A rice to certain third countries

(Closing date for the submission of tenders (date/time))

| 1 | 2 | 3 |
|--------------------------|----------------------|--|
| Serial number of tenders | Quantities in tonnes | Amount of export refund in ecu per tonne |
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| etc. | | |

COMMISSION REGULATION (EC) No 2429/95
of 16 October 1995

on an invitation to tender for the refund on export of wholly milled round grain rice to certain third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1530/95 ⁽²⁾, and in particular Article 14 thereof,

Whereas examination of the balance sheet shows that exportable amounts of rice are currently held by producers; whereas this situation could affect the normal development of producer prices during the 1995/96 marketing year;

Whereas, in order to remedy this situation, it is appropriate to make use of export refunds to zones which may be supplied by the Community; whereas the special situation of the rice market makes it necessary to limit the quantities of rice benefiting from the refunds, and therefore to apply Article 14 of Regulation (EEC) No 1418/76 enabling the amount of refund to be fixed by tendering procedure;

Whereas it should be stated that the provisions of Commission Regulation (EEC) No 584/75 of 6 March 1975 laying down detailed rules for the application of the system of tendering for export refunds on rice ⁽³⁾, as last amended by Regulation (EC) No 299/95 ⁽⁴⁾, apply to this invitation to tender;

Whereas, in order to avoid disturbances on the markets of the producing countries, the markets of destination should be limited to Zones I to VI and Zone VIII, excluding Guyana, Madagascar and Suriname, noted in the Annex to Regulation (EEC) No 2145/92 ⁽⁵⁾, as amended by Regulation (EC) No 3304/94 ⁽⁶⁾;

Whereas 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

1. An invitation to tender is hereby opened, for the refund on export of wholly milled round grain rice

referred to in Article 14 of Regulation (EEC) No 1418/76, for Zones I to VI and Zone VIII excluding Guyana, Madagascar and Suriname, as specified in the Annex to Regulation (EEC) No 2145/92.

2. The invitation to tender shall be open until 27 June 1996. During that period weekly invitations to tender shall be issued and the date for submission of tenders shall be determined in the notice of invitation to tender.

3. The invitation to tender shall take place in accordance with the provisions of Regulation (EEC) No 584/75 and with the following provisions.

Article 2

A tender shall be valid only if it covers a quantity for export of at least 50 tonnes but not more than 5 000 tonnes.

Article 3

The security referred to in Article 3 of Regulation (EEC) No 584/75 shall be ECU 20 per tonne.

Article 4

1. Notwithstanding the provisions of Article 21 (1) of Commission Regulation (EEC) No 3719/88 ⁽⁷⁾, export licences issued within this invitation to tender shall, for the purposes of determining their period of validity, be considered as having been issued on the day the tender was submitted.

2. The licences shall be valid from their date of issue, within the meaning of paragraph 1, until the end of the third month following.

Article 5

Tenders submitted must reach the Commission through the Member States not later than one and a half hours after expiry of the time limit for weekly submission of tenders as laid down in the notice of invitation to tender. They must be transmitted in accordance with the table given in the Annex.

If no tenders are submitted, the Member States shall inform the Commission accordingly within the same time limit as that given in the above subparagraph.

Article 6

The time set for submitting tenders shall be Belgian time.

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 148, 30. 6. 1995, p. 5.

⁽³⁾ OJ No L 61, 7. 3. 1975, p. 25.

⁽⁴⁾ OJ No L 35, 15. 2. 1995, p. 8.

⁽⁵⁾ OJ No L 214, 30. 7. 1992, p. 20.

⁽⁶⁾ OJ No L 341, 30. 12. 1994, p. 48.

⁽⁷⁾ OJ No L 331, 2. 12. 1988, p. 1.

Article 7

1. On the basis of tenders submitted, the Commission shall decide in accordance with the procedure referred to in Article 27 of Regulation (EEC) No 1418/76 :

- either to fix a maximum export refund, taking account of the criteria laid down in Articles 14 of Regulation (EEC) No 1418/76,
- or not to take any action on the tenders.

2. Where a maximum export refund is fixed, an award shall be made to the tenderer or tenderers whose tenders are at or below the maximum export refund level.

Article 8

The time limit for submission of tenders for the first partial invitation to tender shall expire on 26 October 1995 at 10 a.m.

The final date for submission of tenders is hereby fixed at 27 June 1996.

Article 9

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

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

Done at Brussels, 16 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Weekly invitation to tender for the refund on export of wholly milled round grain rice to certain third countries

(Closing date for the submission of tenders (date/time))

| 1 | 2 | 3 |
|--------------------------|----------------------|--|
| Serial number of tenders | Quantities in tonnes | Amount of export refund in ecu per tonne |
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| etc. | | |

COMMISSION REGULATION (EC) No 2430/95

of 16 October 1995

opening an invitation to tender for the refund on export of wholly milled medium grain and long grain A rice to certain third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1530/95 ⁽²⁾, and in particular Article 14 thereof,

Whereas examination of the balance sheet shows that exportable amounts of rice are currently held by producers; whereas this situation could affect the normal development of producer prices during the 1995/96 marketing year;

Whereas, in order to remedy this situation, it is appropriate to make use of export refunds to zones which may be supplied by the Community; whereas the special situation of the rice market makes it necessary to limit the refunds, and therefore to apply Article 14 of Regulation (EEC) No 1418/76 enabling the refund amount to be fixed by tendering procedure;

Whereas it should be stated that the provisions of Commission Regulation (EEC) No 584/75 of 6 March 1975 laying down detailed rules for the application of the system of tendering for export refunds on rice ⁽³⁾, as last amended by Regulation (EC) No 299/95 ⁽⁴⁾, apply to this invitation to tender;

Whereas, in order to avoid disturbances on the markets of the producing countries, the markets of destination should be limited to Zones I to VI and Zone VIII, excluding Guyana, Madagascar and Suriname, noted in the Annex to Regulation (EEC) No 2145/92 ⁽⁵⁾, as amended by Regulation (EC) No 3304/94 ⁽⁶⁾;

Whereas 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

1. An invitation to tender is hereby opened, for the refund on export of wholly milled medium grain and long grain A rice referred to in Article 14 of Regulation

(EEC) No 1418/76, for Zones II (a), (b), (d) and III as specified in Annex to Regulation (EEC) No 2145/92.

2. The invitation to tender shall be open until 27 June 1996. During that period weekly invitations to tender shall be issued and the date for submission of tenders shall be determined in the notice of invitation to tender.

3. The invitation to tender shall take place in accordance with the provisions of Regulation (EEC) No 584/75 and with the following provisions.

Article 2

A tender shall be valid only if it covers a quantity for export of at least 50 tonnes but not more than 5 000 tonnes.

Article 3

The security referred to in Article 3 of Regulation (EEC) No 584/75 shall be ECU 20 per tonne.

Article 4

1. Notwithstanding the provisions of Article 21 (1) of Commission Regulation (EEC) No 3719/88 ⁽⁷⁾, export licences issued within this invitation to tender shall, for the purposes of determining their period of validity, be considered as having been issued on the day the tender was submitted.

2. The licences shall be valid from their date of issue, within the meaning of paragraph 1, until the end of the third month following.

Article 5

Tenders submitted must reach the Commission through the Member States not later than one and a half hours after expiry of the time limit for weekly submission of tenders as laid down in the notice of invitation to tender. They must be transmitted in accordance with the table given in the Annex.

If no tenders are submitted, the Member States shall inform the Commission accordingly within the same time limit as that given in the above subparagraph.

Article 6

The time set for submitting tenders shall be Belgian time.

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 148, 30. 6. 1995, p. 5.

⁽³⁾ OJ No L 61, 7. 3. 1975, p. 25.

⁽⁴⁾ OJ No L 35, 15. 2. 1995, p. 8.

⁽⁵⁾ OJ No L 214, 30. 7. 1992, p. 20.

⁽⁶⁾ OJ No L 341, 30. 12. 1994, p. 48.

⁽⁷⁾ OJ No L 331, 2. 12. 1988, p. 1.

Article 7

1. On the basis of tenders submitted, the Commission shall decide in accordance with the procedure referred to in Article 27 of Regulation (EEC) No 1418/76 :

- either to fix a maximum export refund, taking account of the criteria laid down in Article 14 of Regulation (EEC) No 1418/76,
- or not to take any action on the tenders.

2. Where a maximum export refund is fixed, an award shall be made to the tenderer or tenderers whose tenders are at or below the maximum export refund level.

Article 8

The time limit for submission of tenders for the first partial invitation to tender shall be 10 a.m. on 26 October 1995.

The final date for submission of tenders is hereby fixed at 27 June 1996.

Article 9

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

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

Done at Brussels, 16 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Weekly invitation to tender for the refund on export of wholly milled medium grain and long grain A rice to certain third countries

(Closing date for the submission of tenders (date/time))

| 1 | 2 | 3 |
|--------------------------|----------------------|--|
| Serial number of tenders | Quantities in tonnes | Amount of export refund in ecu per tonne |
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| etc. | | |

COMMISSION REGULATION (EC) No 2431/95
of 16 October 1995

concerning the issue of import licences for certain preserved mushrooms
originating in countries other than China, Bulgaria, Poland and Romania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EEC) No 2125/95 of 6 September 1995 opening and providing for the administration of Community tariff quotas for preserved mushrooms of the genus *Agaricus* spp.⁽¹⁾, and in particular Article 6 (4) thereof,

Whereas Article 6 (4) of Regulation (EC) No 2125/95 lays down that where the quantities applied for exceed the quantity available, the Commission must set a flat-rate percentage reduction and suspend the issue of licences in respect of subsequent applications;

Whereas the quantities applied for on 11 and 12 October 1995 for products originating in countries other than China, Bulgaria, Poland and Romania exceeded the quantity available; whereas, as a result, the extent to which licences may be issued must be determined and the issue of licences for all subsequent applications should be suspended until 31 December 1995,

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

Done at Brussels, 16 October 1995.

HAS ADOPTED THIS REGULATION:

Article 1

Import licences applied for pursuant to Regulation (EC) No 2125/95 for products originating in countries other than China, Bulgaria, Poland and Romania and 11 and 12 October 1995 and submitted to the Commission on 13 October 1995 shall be issued, bearing the wording laid down in Article 11 (1) of that Regulation, for 42,7 % of the quantity applied for.

Article 2

The issue of import licences applied for pursuant to Regulation (EC) No 2125/95 for countries other than China, Bulgaria, Poland and Romania shall be suspended for applications submitted from 13 October 1995 until 31 December 1995.

Article 3

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

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 212, 7. 9. 1995, p. 16.

COMMISSION REGULATION (EC) No 2432/95
of 16 October 1995
on the issuing of export licences for products processed from 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 1429/95 of 23 June 1995 on implementing rules for export refunds on products processed from fruit and vegetables other than those granted for added sugars ⁽¹⁾, and in particular Article 4 (1) thereof,

Whereas Commission Regulation (EC) No 1489/95 ⁽²⁾ specifies the quantities which may be covered by applications submitted for export licences with advance fixing of the refund other than those applied for in connection with food aid;

Whereas Article 4 of Regulation (EC) No 1429/95 lays down the conditions under which special measures may be taken by the Commission to prevent an overrun in the quantities for which export licence applications may be submitted;

Whereas, in view of the information available to the Commission as of today, the quantity of 832 tonnes of preserved cherries in the Annex to Regulation (EC) No 1489/95, reduced or increased by the quantities referred to in Article 4 (1) of Regulation (EC) No 1429/95, would be exceeded if licences were issued with advanced fixing

of refunds without restriction in response to applications submitted since 13 October 1995; whereas a reducing factor should accordingly be applied to the quantities applied for on 13 October 1995, and applications for export licences with advance fixing of refunds submitted subsequently with a view to such licences being issued during the current period should be rejected,

HAS ADOPTED THIS REGULATION :

Article 1

Export licences with advance fixing of the refund for preserved cherries for which applications are submitted on 13 October 1995 under Article 1 of Regulation (EC) No 1489/95 shall be issued for 19,77 % of the quantities applied for.

Applications for export licences with advance fixing of refunds for the above product submitted after 13 October 1995 and before 25 October 1995 shall be rejected.

Article 2

This Regulation shall enter into force on 17 October 1995.

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

Done at Brussels, 16 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 141, 24. 6. 1995, p. 32.

⁽²⁾ OJ No L 145, 29. 6. 1995, p. 75.

COMMISSION REGULATION (EC) No 2433/95
of 16 October 1995

**adopting interim protective measures on applications for STM licences in the
beef and veal sector submitted for trade with Spain on 16 October 1995**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Articles 85 (1) thereof,

Whereas Commission Regulation (EEC) No 1112/93 of 6 May 1993 laying down detailed rules for the application of the supplementary trade mechanism in the beef and veal sector between the Community as constituted at 31 December 1985 and Spain and Portugal and repealing Regulations (EEC) No 3810/91 and (EEC) No 3829/92 ⁽¹⁾, as last amended by Regulation (EC) No 2399/95 ⁽²⁾, set the indicative ceilings applicable in the beef and veal sector and the maximum quantities for which STM licences may be issued in September and October 1995;

Whereas Article 85 (1) of the Act of Accession makes provision for the Commission to take the interim protective measures necessary if the indicative ceiling for the year in course or part of it is reached or exceeded;

Whereas an examination of licence application lodged on 16 October 1995 shows that the quantities applied for are

likely to bring about a serious disturbance of the market for live animals; whereas, as an interim protective measure, licences should only be issued for up to a given percentage of the quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

For live animals of the bovine species other than purebred breeding animals and animals for bullfights:

1. applications for STM licences lodged on 16 October 1995 and notified to the Commission shall be accepted in respect of 57 % for Spain;
2. further applications may be submitted from 13 November 1995.

Article 2

This Regulation shall enter into force on 17 October 1995.

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

Done at Brussels, 16 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 113, 7. 5. 1993, p. 10.

⁽²⁾ OJ No L 246, 13. 10. 1995, p. 1.

COMMISSION REGULATION (EC) No 2434/95

of 16 October 1995

amending representative prices and additional duties for the import of certain products in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1101/95⁽²⁾,

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

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1568/95⁽⁴⁾, as last amended by Regulation (EC) No 2410/95⁽⁵⁾;

Whereas it follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to

the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION :

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 October 1995.

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

Done at Brussels, 16 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 141, 24. 6. 1995, p. 16.

⁽⁴⁾ OJ No L 150, 1. 7. 1995, p. 36.

⁽⁵⁾ OJ No L 246, 13. 10. 1995, p. 35.

ANNEX

to the Commission Regulation of 16 October 1995 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

| CN code | Amount of representative prices per 100 kg net of product concerned | Amount of additional duty per 100 kg net of product concerned |
|---------------------------|---|---|
| 1701 11 10 ⁽¹⁾ | 23,10 | 4,75 |
| 1701 11 90 ⁽¹⁾ | 23,10 | 9,98 |
| 1701 12 10 ⁽¹⁾ | 23,10 | 4,56 |
| 1701 12 90 ⁽¹⁾ | 23,10 | 9,55 |
| 1701 91 00 ⁽²⁾ | 29,77 | 10,35 |
| 1701 99 10 ⁽²⁾ | 29,77 | 5,83 |
| 1701 99 90 ⁽²⁾ | 29,77 | 5,83 |
| 1702 90 99 ⁽³⁾ | 0,30 | 0,35 |

⁽¹⁾ For the standard quality as defined in Article 1 of Council Regulation (EEC) No 431/68 (OJ No L 89, 10. 4. 1968, p. 3).

⁽²⁾ For the standard quality as defined in Article 1 of Council Regulation (EEC) No 793/72 (OJ No L 94, 21. 4. 1972, p. 1).

⁽³⁾ By 1 % sucrose content.

COMMISSION REGULATION (EC) No 2435/95
of 16 October 1995
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 1740/95⁽²⁾, and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EC) No 150/95⁽⁴⁾, and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multi-lateral 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;

Whereas, 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 17 October 1995.

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

Done at Brussels, 16 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 167, 18. 7. 1995, p. 10.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

ANNEX

**to the Commission Regulation of 16 October 1995 establishing the standard import values
for determining the entry price of certain fruit and vegetables**

| <i>(ECU/100 kg)</i> | | | <i>(ECU/100 kg)</i> | | |
|---------------------|------------------------|-----------------------|---------------------------------------|------------------------|-----------------------|
| CN code | Third country code (1) | Standard import value | CN code | Third country code (1) | Standard import value |
| 0702 00 40 | 052 | 54,3 | 0806 10 40 | 052 | 110,5 |
| | 060 | 80,2 | | 064 | 81,7 |
| | 064 | 59,6 | | 066 | 49,4 |
| | 066 | 41,7 | | 220 | 110,8 |
| | 068 | 62,3 | | 400 | 143,9 |
| | 204 | 50,9 | | 412 | 132,4 |
| | 212 | 117,9 | | 512 | 186,0 |
| | 624 | 75,0 | | 600 | 64,5 |
| | 999 | 67,7 | | 624 | 123,2 |
| | 999 | 67,7 | | 999 | 111,4 |
| ex 0707 00 30 | 052 | 70,1 | 0808 10 92, 0808 10 94, 0808 10 98 | 039 | 79,3 |
| | 053 | 166,9 | | 064 | 76,6 |
| | 060 | 61,0 | | 388 | 49,5 |
| | 066 | 53,8 | | 400 | 69,4 |
| | 068 | 60,4 | | 404 | 55,1 |
| | 204 | 49,1 | | 508 | 68,4 |
| | 624 | 207,3 | | 512 | 50,7 |
| | 999 | 95,5 | | 524 | 57,4 |
| | 999 | 95,5 | | 528 | 48,0 |
| | 999 | 109,8 | | 800 | 43,9 |
| 0709 90 79 | 052 | 55,6 | 0808 20 57 | 804 | 29,0 |
| | 204 | 77,5 | | 999 | 57,0 |
| | 624 | 196,3 | | 052 | 83,6 |
| | 999 | 109,8 | | 064 | 78,7 |
| 0805 30 30 | 052 | 66,9 | 388 | 79,6 | |
| | 388 | 80,2 | 512 | 89,7 | |
| | 400 | 151,4 | 528 | 84,1 | |
| | 512 | 54,8 | 800 | 55,8 | |
| | 520 | 66,5 | 804 | 112,9 | |
| | 524 | 59,8 | 999 | 83,5 | |
| | 528 | 65,2 | | | |
| | 600 | 54,7 | | | |
| | 624 | 78,0 | | | |
| | 999 | 75,3 | | | |

(1) Country nomenclature as fixed by Commission Regulation (EC) No 3079/94 (OJ No L 325, 17. 12. 1994, p. 17). Code '999' stands for 'of other origin.'

COUNCIL DIRECTIVE 95/50/EC

of 6 October 1995

on uniform procedures for checks on the transport of dangerous goods by road

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189c of the Treaty ⁽³⁾,

Whereas the Community has adopted a number of measures for the establishment of an internal market comprising an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty ;

Whereas checks on the transport of dangerous goods by road are carried out in accordance with Council Regulation (EEC) No 4060/89 of 21 December 1989 on the elimination of controls performed at the frontiers of Member States in the field of road and inland waterway transport ⁽⁴⁾ and Council Regulation (EEC) No 3912/92 of 17 December 1992 on controls carried out within the Community in the field of road and inland waterway transport in respect of means of transport registered or put into circulation in a third country ⁽⁵⁾ ;

Whereas the Council has adopted Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road ⁽⁶⁾ ; whereas the respective procedures for checking and the definitions relating to this type of transport should accordingly be harmonized in order for compliance with the safety standards laid down therein to be verified more effectively ;

Whereas the Member States should ensure a sufficient level of checks on the vehicles concerned throughout their territory while, where possible, avoiding the proliferation of such checks ;

Whereas, in the light of the principle of subsidiarity, Community action is therefore necessary to improve the level of safety of the transport of dangerous goods ;

Whereas checks should be carried out using a list of common items applicable to such transport throughout the Community ;

Whereas it is necessary to draw up a list of infringements deemed sufficiently serious by all Member States to result in the application to the vehicles concerned of appropriate measures depending on the circumstances or the requirements of safety, including, where appropriate, refusal to admit the vehicles concerned to the Community ;

Whereas, in order to improve compliance with safety standards for the transport of dangerous goods by road, it is necessary to make provision for checks to be carried out in undertakings as a preventive measure or when serious infringements of laws on the transport of dangerous goods have been recorded at the roadside ;

Whereas the checks in question must apply to all consignments of dangerous goods transported by road wholly or partly within the territory of the Member States, irrespective of the point of departure or the destination of the goods or the country in which the vehicle is registered ;

Whereas, in the event of serious or repeated infringements, the competent authorities of the Member State in which the vehicle is registered or in which the undertaking is established may be asked to take appropriate measures and whereas they shall inform the requesting Member State of any follow-up measures taken ;

Whereas the application of this Directive should be monitored on the basis of a report to be submitted by the Commission,

HAS ADOPTED THIS DIRECTIVE :

Article 1

1. This Directive shall apply to checks carried out by Member States on the transport of dangerous goods by road in vehicles travelling in their territory or entering it from a third country.

It shall not apply to the transport of dangerous goods by vehicles belonging to or under the responsibility of the armed forces.

⁽¹⁾ OJ No C 26, 29. 1. 1994, p. 10 and OJ No C 238, 26. 8. 1994, p. 4.

⁽²⁾ OJ No C 195, 18. 7. 1994, p. 18.

⁽³⁾ Opinion of the European Parliament of 3 May 1994 (OJ No C 205, 25. 7. 1994, p. 55), Council Common Position of 21 November 1994 (OJ No C 354, 13. 12. 1994, p. 1) and Decision of the European Parliament of 14 March 1995 (OJ No C 89, 10. 4. 1995, p. 29).

⁽⁴⁾ OJ No L 390, 30. 12. 1989, p. 18. Regulation amended by Regulation (EEC) No 3356/91 (OJ No L 318, 20. 11. 1991, p. 1).

⁽⁵⁾ OJ No L 395, 31. 12. 1992, p. 6.

⁽⁶⁾ OJ No L 319, 12. 12. 1994, p. 7.

2. This Directive shall not, however, affect the Member States' right, with due regard to Community law, to carry out checks on the national and international transport of dangerous goods within their territories performed by vehicles not covered by this Directive.

Article 2

For the purposes of this Directive :

- 'vehicle' shall mean any motor vehicle intended for use on the road, whether complete or incomplete, which has at least four wheels and a maximum design speed exceeding 25 km/h, together with its trailers, with the exception of vehicles which run on rails, of agricultural and forestry tractors and of all mobile machinery,
- 'dangerous goods' shall mean dangerous goods defined as such in Directive 94/55/EC,
- 'transport' shall mean any road transport operation performed by a vehicle wholly or partly on public roads within the territory of a Member State, including the loading and unloading of goods covered by Directive 94/55/EC, without prejudice to the arrangements laid down by the laws of the Member States concerning liability in respect of such operations,
- 'undertaking' shall mean any natural or legal person, whether or not profit-seeking, any association or group of persons without legal personality, whether or not profit-seeking, and any body coming under a public authority, whether itself possessing legal personality or dependent on an authority having such personality, which carry, load or unload dangerous goods or cause them to be carried and those which temporarily store, collect, package or take delivery of such goods as part of a transport operation and are located in the territory of the Community,
- 'check' shall mean any check, control, inspection, verification or formality carried out by the competent authorities for reasons of safety inherent in the transport of dangerous goods.

Article 3

1. The Member States shall ensure that a representative proportion of consignments of dangerous goods transported by road is subject to the checks laid down by this Directive, in order to check their compliance with the laws on the transport of dangerous goods by road.

2. Such checks shall be carried out in the territory of a Member State in accordance with Article 3 of Regulation (EEC) No 4060/89 and Article 1 of Regulation (EEC) No 3912/92.

Article 4

1. In order to carry out the checks provided for in this Directive, the Member States shall use the checklist in

Annex I. A copy of this checklist or a certificate showing the result of the check drawn up by the authority which carried it out shall be given to the driver of the vehicle and presented on request in order to simplify or avoid, where possible, subsequent checks. This paragraph shall not prejudice Member States' right to carry out specific measures for detailed checks.

2. The checks shall be random and shall as far as possible cover an extensive portion of the road network.

3. The places chosen for these checks must permit infringing vehicles to be brought into compliance or, if the authority carrying out the check deems it appropriate to be immobilized on-the-spot or at a place designated for that purpose by the said authority without causing a safety hazard.

4. Where appropriate and provided that this does not constitute a safety hazard, samples of the goods transported may be taken for examination by laboratories recognized by the competent authority.

5. Checks shall not exceed a reasonable length of time.

Article 5

Without prejudice to other penalties which may be imposed, vehicles in respect of which one or more infringements of the rules on the transport of dangerous goods, in particular infringements listed in Annex II, are established may be immobilized either on-the-spot or at a place designated for this purpose by the authorities carrying out the check and required to be brought into conformity before continuing their journey or may be subject to other appropriate measures, depending on the circumstances or the requirements of safety including, where appropriate, refusal to allow such vehicles to enter the Community.

Article 6

1. Checks may also be carried out at the premises of undertakings, as a preventive measure or where infringements which jeopardize safety in the transport of dangerous goods have been recorded at the roadside.

2. The purpose of such checks shall be to ensure that safety conditions for the transport of dangerous goods by road comply with the relevant laws.

Where one or more infringements, in particular those listed in Annex II, have been established in respect of the transport of dangerous goods by road, the transport in question shall be brought into conformity before the goods leave the undertaking or shall be subject to other appropriate measures.

Article 7

1. Member States shall assist one another in order to give proper effect to this Directive.

2. Serious or repeated infringements jeopardizing the safety of the transport of dangerous goods committed by a non-resident vehicle or undertaking must be reported to the competent authorities in the Member State in which the vehicle is registered or in which the undertaking is established.

The competent authorities of the Member State in which serious or repeated infringements have been recorded may ask the competent authorities of the Member State in which the vehicle is registered or in which the undertaking is established for appropriate measures to be taken with regard to the offender or offenders.

The latter competent authorities shall notify the competent authorities of the Member State in which the infringements were recorded of any measures taken with regard to the transporter or the undertaking.

Article 8

If the findings of a roadside check on a vehicle registered in another Member State give grounds for believing that serious or repeated infringements have been committed which cannot be detected in the course of that check in the absence of the necessary data, the competent authorities of the Member States concerned shall assist one another in order to clarify the situation. Where, to that end, the competent Member State carries out a check in the undertaking, the other Member States concerned shall be notified of the results.

Article 9

1. Each Member State shall send the Commission for each calendar year not later than twelve months after the end of that year a report, drawn up in accordance with the model in Annex III, on the application of this Directive, including the following particulars:

- if possible, determined or estimated volume of dangerous goods transported by road (in tonnes transported or in tonnes/kilometres),

- number of checks carried out,
- number of vehicles checked by place of registration (vehicles registered nationally, in other Member States or in third countries),
- number and types of infringements recorded,
- type and number of penalties imposed.

2. The Commission shall send the European Parliament and the Council, for the first time in 1999 and subsequently at least every three years, a report on the application of this Directive by the Member States, stating the particulars in accordance with paragraph 1 above.

Article 10

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 1997. They shall forthwith inform the Commission thereof.

When these provisions are adopted by the Member States, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of the essential provisions of domestic law which they adopt in the field governed by this Directive.

Article 11

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

Article 12

This Directive is addressed to the Member States.

Done at Luxembourg, 6 October 1995.

For the Council

The President

J. BORRELL FONTELLES

ANNEX I

CHECKLIST

1. Place of check 2. Date 3. Time
4. Vehicle nationality mark and registration number 5. Trailer/semi-trailer nationality mark and registration number
6. Type of vehicle lorry road train articulated vehicle with platform
7. Undertaking carrying out transport/address 8. Nationality
9. Driver
10. Driver's mate
11. Consignor, address, place of loading (!)
12. Consignee, address, place of unloading (!)
13. Gross mass of dangerous goods by transport unit
14. Marginal 10 011 quantity limit exceeded Yes No
15. Carried out by
 fixed tank removable tank tank container battery of receptacles
 in bulk container package
- On board document(s)**
16. Transport/accompanying document(s) inspected infringement established not applicable
17. Written instructions inspected infringement established not applicable
18. Bilateral/multilateral agreement/national authorization inspected infringement established not applicable
19. Vehicle approval certificate inspected infringement established not applicable
20. Driver's training certificate inspected infringement established not applicable
- Circulation of vehicle**
21. Goods authorized for transport inspected infringement established not applicable
22. Bulk goods inspected infringement established not applicable
23. Tank transport inspected infringement established not applicable
24. Container transport inspected infringement established not applicable
25. Authorized goods for type of vehicle inspected infringement established not applicable

(!) To be stated under 'remarks' for groupage transport operations.

- | | | | |
|---|------------------------------------|---|---|
| 26. Prohibition of mixed loading | <input type="checkbox"/> inspected | <input type="checkbox"/> infringement established | <input type="checkbox"/> not applicable |
| 27. Handling and storage ⁽²⁾ | <input type="checkbox"/> inspected | <input type="checkbox"/> infringement established | <input type="checkbox"/> not applicable |
| 28. Leakage of goods or damage to package ⁽²⁾ | <input type="checkbox"/> inspected | <input type="checkbox"/> infringement established | <input type="checkbox"/> not applicable |
| 29. UN number/package labelling/UN packaging code ⁽¹⁾ ⁽²⁾ | <input type="checkbox"/> inspected | <input type="checkbox"/> infringement established | <input type="checkbox"/> not applicable |
| 30. Vehicle and/or container marking | <input type="checkbox"/> inspected | <input type="checkbox"/> infringement established | <input type="checkbox"/> not applicable |
| 31. Tank or bulk transport hazard label(s) | <input type="checkbox"/> inspected | <input type="checkbox"/> infringement established | <input type="checkbox"/> not applicable |

Vehicle equipment

- | | | | |
|--|------------------------------------|---|---|
| 32. Tool set for temporary repairs | <input type="checkbox"/> inspected | <input type="checkbox"/> infringement established | <input type="checkbox"/> not applicable |
| 33. At least one scotch per vehicle | <input type="checkbox"/> inspected | <input type="checkbox"/> infringement established | <input type="checkbox"/> not applicable |
| 34. Two orange-coloured lights | <input type="checkbox"/> inspected | <input type="checkbox"/> infringement established | <input type="checkbox"/> not applicable |
| 35. Fire extinguisher(s) | <input type="checkbox"/> inspected | <input type="checkbox"/> infringement established | <input type="checkbox"/> not applicable |
| 36. Driver's personal protective equipment | <input type="checkbox"/> inspected | <input type="checkbox"/> infringement established | <input type="checkbox"/> not applicable |

37. Miscellaneous/remarks

38. Authority/officer having carried out the inspection

⁽¹⁾ To be stated under 'remarks' for groupage transport operations.
⁽²⁾ Check of visible violations.

ANNEX II

INFRINGEMENTS

For the purposes of this Directive, the following in particular shall be regarded as infringements :

1. goods not authorized for transport ;
2. absence of consignor's declaration on the conformity of the goods and their packaging with transport regulations ;
3. vehicles which, on checking, display leaks of dangerous substances due to the lack of leakproof integrity of tanks or packages ;
4. vehicles with no type-approval certificate or with a non-regulation certificate ;
5. vehicles lacking appropriate orange panels or with non-regulation orange panels ;
6. vehicles without safety instructions or with inappropriate ones ;
7. inappropriate vehicle or packaging ;
8. driver without a regulation vocational training certificate for the carriage of dangerous goods by road ;
9. vehicles lacking fire extinguishers ;
10. vehicles or packages without regulation danger labels ;
11. vehicles lacking transport/accompanying documents, or with particulars relating to the dangerous goods on board which are not in compliance with the regulations ;
12. vehicles not covered by a bilateral/multilateral agreement or not in compliance with the agreement ;
13. overfilling of tank.

ANNEX III

**MODEL STANDARD FORM FOR THE REPORT TO BE SENT TO THE COMMISSION
CONCERNING INFRINGEMENTS AND PENALTIES**

Country : Year :

Roadside checks

| | Place of registration of vehicles ⁽¹⁾ | | | Total number |
|---|--|------------------------|-----------------|--------------|
| | Country of check | Other EU Member States | Third countries | |
| Number of vehicles checked | | | | |
| Number of infringements noted according to type of infringement | | | | |
| Number and type of penalties imposed | | | | |

⁽¹⁾ For the purposes of this Annex the country of registration is that of the motor vehicle.

II

(Acts whose publication is not obligatory)

COMMISSION**ADMINISTRATIVE COMMISSION OF THE EUROPEAN COMMUNITIES ON
SOCIAL SECURITY FOR MIGRANT WORKERS****DECISION No 156**

of 7 April 1995

concerning the rules of priority with regard to sickness and maternity insurance

(95/419/EC)

THE ADMINISTRATIVE COMMISSION OF THE EUROPEAN COMMUNITIES ON SOCIAL SECURITY FOR MIGRANT WORKERS,

Having regard to Article 81 (a) of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed person and to members of their families moving within the Community, under which it is made responsible for dealing with all administrative questions arising from the provisions of that Regulation,

Having regard to Article 34 (2) of Regulation (EEC) No 1408/71 under which the provisions of the said Regulation concerning the grant of sickness and maternity insurance benefits in kind to pensioners and to members of their families (Articles 27 to 33) 'shall not apply to a pensioner or to members of his family who are entitled to benefits under the legislation of a Member State as a result of pursuing a professional or trade activity. In such a case, the person concerned shall, for the purposes of the implementation of this chapter, be considered as an employed or self-employed person or as a member of an employed or self-employed person's family';

Whereas it is necessary to delimit accurately the scope of this Article and to extend its field of application so as to avert divergencies of interpretation between the social security institutions of the Member States;

Whereas rules of priority should be laid down for the application of the chapter on sickness and maternity of the Regulation where an unemployed person resumes a part-time professional or trade activity in the territory of a Member State other than that under whose legislation he continues to receive unemployment benefits;

Whereas it is necessary to lay down rules of priority for the application of the chapter on sickness and maternity where a pensioner who pursues a professional or trade activity in another Member State becomes unemployed;

Whereas, however, these rules of priority must not affect the precedence of the rule of priority of personal rights over derived rights,

HAS DECIDED AS FOLLOWS:

1. Article 25 of Regulation (EEC) No 1408/71 shall not be applicable to a wholly unemployed person who resumes a part-time professional or trade activity or to members of his family who are entitled to benefits under the legislation of a Member State because of the pursuit of such professional or trade activity. In this case the person concerned shall, for the purposes of the chapter on sickness and maternity of the said Regulation, be considered an employed or self-employed person and the members of his family as members of an employed or self-employed person's family.
2. Articles 27 to 33 of Regulation (EEC) No 1408/71 shall not be applicable to pensioners or members of their families who are entitled to benefits under the legislation of a Member State by virtue of the receipt of unemployment benefit. In this case, the person concerned shall, for the purposes of the chapter on sickness and maternity of the said Regulation, be considered an employed or self-employed person who has become unemployed and the members of his family as members of the family of an employed or self-employed person who has become unemployed.
3. The application of Article 34 (2) of Regulation (EEC) No 1408/71 and of the above-mentioned provisions cannot reverse, for the person concerned, the order of priority of rights personally he has acquired by pursuing a professional or trade activity, by being wholly unemployed or by receiving a pension over derived rights he has acquired through another person of whom he is a member of the family or a survivor.
4. This Decision shall be applicable from the first day of the month following its publication in the *Official Journal of the European Communities*.

*The Chairman
of the Administrative Commission*

Monique MOUSSEAU

COMMISSION DECISION

of 19 July 1995

amending Decision 82/43/EEC relating to the setting up of an Advisory Committee on Equal Opportunities for Women and Men

(95/420/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas the constant improvement of living and working conditions and the harmonious development of economies constitute objectives of the European Economic Community;

Whereas the Heads of State and Government, meeting within the European Council on 10 and 11 December 1994, emphasized that equality of opportunity for women and men, together with the fight against unemployment, is a paramount task of the European Union and its Member States;

Whereas equality between women and men is essential to human dignity and democracy, and constitutes a fundamental principle of Community law, of the constitutions and laws of the Member States, and of international and European conventions;

Whereas the application in practice of the principle of equal treatment for women and men must be encouraged by improved cooperation and exchanges of views and experience between those bodies which have special responsibility in the Member States for promoting equality of opportunity, the social partners and the Commission;

Whereas the full implementation in practice of the six Directives, two recommendations and nine resolutions adopted by the Council in the field of equal opportunities⁽¹⁾ can be speeded up considerably with the assistance of national bodies having a network of specialized information at their disposal;

(¹) Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women (OJ No L 45, 19. 2. 1975, p. 19);

Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ No L 39, 14. 2. 1976, p. 40);

Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ No L 6, 10. 1. 1979, p. 24);

Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes (OJ No L 225, 12. 8. 1986, p. 40);

Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood (OJ No L 359, 19. 12. 1986, p. 56);

Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (OJ No L 348, 28. 11. 1992, p. 1);

Council resolution of 12 July 1982 on the promotion of equal opportunities for women (OJ No C 186, 21. 7. 1982, p. 3);

Council resolution of 7 June 1984 on action to combat unemployment amongst women (OJ No C 161, 21. 6. 1984, p. 4);

Resolution of the Council and of the Ministers for Education meeting within the Council of 3 June 1985 containing an action programme on equal opportunities for girls and boys in education (OJ No C 166, 5. 7. 1985, p. 1);

Second Council resolution of 24 July 1986 on the promotion of equal opportunities for women (OJ No C 203, 12. 8. 1986, p. 2);

Council resolution of 16 December 1988 on the reintegration and late integration of women into working life (OJ No C 333, 28. 12. 1988, p. 1);

Council resolution of 29 May 1990 on the protection of the dignity of women and men at work (OJ No C 157, 27. 6. 1990, p. 3);

Council resolution of 21 May 1991 on the third medium-term Community action programme on equal opportunities for women and men (1991-1995) (OJ No C 142, 31. 5. 1991, p. 1);

Council resolution of 22 June 1994 on the promotion of equal opportunities for women and men through action by the European Structural Funds (OJ No C 231, 20. 8. 1994, p. 1);

Council resolution of 27 March 1995 on the balanced participation of women and men in decision-making (OJ No L 168, 4. 7. 1995, p. 3);

Council recommendation of 13 December 1984 on the promotion of positive action for women (84/635/EEC) (OJ No L 331, 19. 12. 1984, p. 34);

Council recommendation of 31 March 1992 on child care (92/241/EEC) (OJ No L 123, 8. 5. 1992, p. 16).

Whereas the preparation, implementation and monitoring of the Community's activities to promote equal opportunities require close cooperation with specialized bodies in the Member States and with the social partners, thereby necessitating an institutional framework for the purpose of regular consultation with those parties ;

Whereas the Advisory Committee on Equal Opportunities for Women and Men, established by Commission Decision 82/43/EEC of 9 December 1981 ⁽¹⁾, has made a significant contribution to the Community's activities in this field, particularly in terms of following up successive Community action programmes both through its opinions and through its cooperation, on a partnership basis, with the Commission ;

Whereas the composition and terms of reference of the Committee have to be adapted to take account of current and future developments with a view to promoting equal opportunities, as outlined in the Commission communication of 19 July 1995 proposing a new medium-term action programme in this connection ; whereas it is therefore necessary to amend Decision 82/43/EEC,

HAS DECIDED AS FOLLOWS :

Article 1

Decision 82/43/EEC is hereby amended as follows :

1. Articles 2 and 3 are replaced by the following text :

'Article 2

1. The Committee shall assist the Commission in formulating and implementing the Community's activities aimed at promoting equal opportunities for women and men, and shall foster ongoing exchanges of relevant experience, policies and practices between the Member States and the various parties involved.

2. To achieve the aims referred to in paragraph 1 above, the Committee shall :

- (a) assist the Commission in the development of instruments for monitoring, evaluating and disseminating the results of measures taken at Union level to promote equal opportunities ;
- (b) contribute to the implementation of Community action programmes in the field, mainly by analysing the results and suggesting improvements to the measures taken ;
- (c) contribute, through its opinion, to the preparation of the Commission's annual report on progress made towards achieving equality of opportunity for women and men ;
- (d) encourage exchanges of information on measures taken at all levels to promote equal opportunities and, where appropriate, put forward proposals for possible follow-up action ;
- (e) deliver opinions or submit reports to the Commission, either at the latter's request or on its own initiative, on any matter of relevance to the promotion of equal opportunities in the Community.

3. Procedures for the circulation of the Committee's opinions and reports shall be determined in agreement with the Commission. They may be published as an annex to the Commission's annual report on equal opportunities for women and men.

Article 3

1. The Committee shall comprise 40 members, i.e. :

- (a) one representative per Member State from ministries or government departments responsible for promoting equal opportunities ; the representative shall be designated by the Government of each Member State ;

⁽¹⁾ OJ No L 20, 28. 1. 1982, p. 35.

- (b) one representative per Member State from national committees or bodies set up by official decision, having specific responsibility for equal opportunities between women and men through representation of the sectors concerned. Where there are several committees or bodies dealing with these matters in a Member State, the Commission shall determine which body, by its objectives, structure, representativeness and degree of independence, is best qualified to be represented on the Committee. Any country without such committees shall be represented by members of bodies deemed by the Commission to perform analogous duties; the representative shall be appointed by the Commission, acting on a proposal from the relevant national committee or body;
- (c) — five members representing employers' organizations at Community level;
— five members representing workers' organizations at Community level.

The representatives shall be appointed by the Commission, acting on a proposal from the social partners at Community level.

2. Two representatives of the European Women's Lobby shall attend meetings of the Committee as observers.

3. Representatives of international and professional organizations and other associations making duly substantiated requests to the Commission may be given observer status.'

2. Article 6 is replaced by the following text:

Article 6

The Committee shall elect a chairperson, with a one-year term of office, from among its members. Election shall be by a majority of two-thirds of the members present; a minimum of half the total votes in favour shall, nevertheless, be required.

Two vice-chairpersons shall be elected by the same majority and under the same conditions. They shall be required to stand in for the chairperson in the absence of the latter. The chairperson and vice-chairpersons must belong to different Member States. They shall constitute the Bureau of the Committee, which shall meet before each meeting of the Committee.

The Commission shall organize the work of the Committee in close cooperation with the chairperson. The draft agenda for meetings of the Committee shall be set by the Commission in agreement with the chairperson. The Secretariat of the Committee shall be provided by the Commission's Equal Opportunities Unit. The minutes of the Committee's meetings shall be drawn up by the Commission and submitted to the Committee for approval.'

3. A third paragraph is added to Article 8 as follows:

'3. One or more members of the Committee may participate as observers in the activities of other advisory committees of the Commission, and shall inform the Committee accordingly.'

4. Articles 10 and 11 are replaced by the following text:

Article 10

The Committee shall be convened by the Commission and shall meet on its premises. It shall meet at least twice a year.

Article 11

The Committee's deliberations deal with the requests for opinion presented by the Commission or with the opinions which the Committee delivers on its own initiative. They are not followed by a vote.

The Commission, when requesting the Committee's opinion, may set a deadline within which the opinion should be delivered.

The views expressed by the different categories represented in the Committee are recorded in the minutes, which are transmitted to the Commission.

Where the opinion requested has been agreed unanimously by the Committee, it will draft common conclusions which are annexed to the minutes.

Article 2

This Decision shall take effect on 1 January 1996.

Done at Brussels, 19 July 1995.

For the Commission

Pádraig FLYNN

Member of the Commission

CORRIGENDA

**Corrigendum to Commission Regulation (EC) No 2411/95 of 12 October 1995 suspending
the advance fixing of export refunds on beef and veal**

(Official Journal of the European Communities No L 246 of 13 October 1995)

On page 37, in Article 1 :

for: '... is hereby suspended from 13 October 1995.'

read: '... is hereby suspended on 13 October 1995.'
