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Legislation

Contents

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

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

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2153/96

of 25 October 1996

amending Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992, establishing the Community Customs Code (1), and in particular Article 249 thereof,

Having regard to the proposal from the Commission,

Whereas, on the basis of Article 361, the level of the comprehensive guarantee in external Community transit fixed at least at 30 % of the duties and other charges payable does not in all cases ensure the recovery of own resources in the case of fraud; whereas consequently it is advisable to increase this level, as a general rule, to 100 % except in specified cases.

Whereas Commission Regulation (EEC) No 2454/93 (2) should be amended,

HAS ADOPTED THIS REGULATION:

Article 1

Article 361 of Regulation (EEC) No 2454/93 is hereby amended as follows:

1. paragraph 1 shall be replaced by the following:

'1. The amount of the comprehensive guarantee is fixed at 100 % of the duties and other charges payable, with a minimum of ECU 7 000, under the provisions of paragraph 4, except in the cases referred to in paragraph 2.

2. The customs authority may fix the amount of the comprehensive guarantee at 30 % at least of the duties and other charges payable, with a minimum of ECU 7 000, under the provisions of paragraph 4, as long as:

— the operator has during the period of two years regularly carried out Community transit operations under the comprehensive guarantee system,

— he has not committed breaches of his obligations during that period,

— that reduced guarantee covers at least the amount of the customs debt,

— the goods are not listed in Annex 52 and are not excluded from the comprehensive guarantee.

3. The exception provided for in paragraph 2 shall not apply if the conditions referred to therein no longer obtain.'

2. paragraphs 2 and 3 shall become paragraphs 4 and 5 respectively.

Article 2

This Regulation shall enter into force on the seventh 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 Luxembourg, 25 October 1996.

For the Council

The President

E. KENNY

(1) OJ No L 302, 19. 10. 1992, p. 1. Regulation as amended by the 1994 Act of Accession.

(2) OJ No L 253, 11. 10. 1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 1676/96 (OJ No L 218, 28. 8. 1996, p. 1).

COMMISSION REGULATION (EC) No 2154/96

of 11 November 1996

on certain transitional measures required to implement the Uruguay Round Agriculture Agreement

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the markets in cereals [1], as last amended by Commission Regulation (EC) No 923/96 [2] and in particular Article 13 thereof, and the corresponding provisions of the other regulations on the common organization of the agricultural markets,

Whereas the second indent of Article 20 (3) (b) of Commission Regulation (EEC) No 3665/87 of 27 November 1987 laying down common detailed rules for the application of the system of export refunds on agricultural products [3], as last amended by Regulation (EC) No 1384/95 [4], lays down that, in the case of differentiated refunds, if the destination indicated on the licence has not be complied with and the rate of refund corresponding to the actual destination is less than the rate of refund indicated on the licence, the refund is to be reduced by 20 % of the difference between that refund and the refund indicated on the licence; whereas this provision applies to export declarations accepted on or after 1 July 1995; whereas the reduction has been introduced to ensure that the restrictions on quantities and value under the Uruguay Round Agricultural Agreements are complied with;

Whereas, to avoid disruption to trade and to ensure a smooth transition to the new GATT rules from the rules applying before 1 July 1995, Commission Regulation (EC) No 974/95 [5] provides for the issue of export licences before 1 July 1995 that can be used after that date; whereas these licences are not to be booked to account under the new GATT rules; whereas these licences should therefore be expressly excluded from the application of the 20 % reduction with effect from 1 July 1995;

Whereas the measures provided for in this Regulation are in accordance with the opinion of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

On application by the interested party submitted not later than one year after the publication of this Regulation, the 20 % reduction laid down in the second indent of Article 20 (3) (b) of Regulation (EEC) No 3665/87 shall not apply to exports effected under export licences issued under Regulation (EC) No 974/95.

Article 2

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

It shall apply from 1 July 1995.

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

Done at Brussels, 11 November 1996.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 126, 24. 5. 1996, p. 37.
[3] OJ No L 351, 14. 12. 1987, p. 1.
[4] OJ No L 134, 20. 6. 1995, p. 14.
[5] OJ No L 97, 29. 4. 1995, p. 66.

COMMISSION REGULATION (EC) No 2155/96

of 11 November 1996

laying down, for the period 1 July 1996 to 30 June 1997, detailed rules of application for the tariff quotas for beef provided for in Council Regulation (EC) No 1926/96 for Estonia, Latvia and Lithuania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1926/96 of 7 October 1996 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Agreements on free trade and trade-related matters with Estonia, Latvia and Lithuania, to take account of the Agreement on Agriculture concluded during the Uruguay Round multilateral trade negotiations [1], and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal [2], as last amended by Regulation (EC) No 1997/96 [3], and in particular Articled 9 (2) thereof,

Whereas Regulation (EC) No 1926/96 provides for certain annual tariff quotas for products made from beef and veal; whereas imports under those quotas qualify for an 80 % reduction in the customs duties set out in the Common Customs Tariff (CCT); whereas detailed rules of application for these quotas, for the period 1 July 1996 to 30 June 1997, should be laid down;

Whereas to ensure orderly importation of the quantities laid down for the period 1 July 1996 to 30 June 1997, they should be staggered over the year 1996/97;

Whereas, while the provisions of the abovementioned Agreements intended to guarantee the origin of the product should be complied with, the administration of the arrangements should be based on import licences; whereas, to that end, detailed rules should be laid down on, in particular, the submission of applications and the information which must appear in applications and licences, notwithstanding certain provisions of Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [4], as last amended by Regulation (EC) No 2137/95 [5], and Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80 [6], as last amended by Regulation (EC) No 2051/96 [7]; whereas provision should also be made for the licences to be issued after a period for consideration and, where necessary, the application of a single percentage reduction;

Whereas, in order to ensure proper administration of the arrangements, the security for import licences under the system should be set at ECU 12 per 100 kilograms; whereas, in view of the risk of speculation inherent in these arrangements for beef and veal, clear conditions should be laid down as regards access by operators;

Whereas, in order to clarify the legal position, Commission Regulation (EC) No 542/96 of 28 March 1996 laying down, for 1996, detailed rules of application for the tariff quotas for beef provided for in the Agreements on free trade between the Community, of the one part, and Lithuania, Latvia and Estonia, of the other part [8], should be repealed;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

1. During the period 1 July 1996 to 30 June 1997, the following may be imported in accordance with this Regulation under the tariff qutoas opened by Regulation (EC) No 1926/96:

— 1 575 tonnes of fresh, refrigerated or frozen beef and veal falling within CN codes 0201 or 0202, originating in Lithuania, Latvia and Estonia,

— 210 tonnes of products falling within CN code 1602 50 10, originating in Latvia.

[1] OJ No L 254, 8. 10. 1996, p. 1.
[2] OJ No L 148, 28. 6. 1968, p. 24.
[3] OJ No L 267, 19. 10. 1996, p. 1.
[4] OJ No L 331, 2. 12. 1988, p. 1.
[5] OJ No L 214, 8. 9. 1995, p. 21.
[6] OJ No L 143, 27. 6. 1995, p. 35.
[7] OJ No L 274, 26. 10. 1996, p. 18.
[8] OJ No L 79, 29. 3. 1996, p. 12.

2. The rates of custom duty fixed in the CCT shall be reduced by 80 % for the quantities indicated in paragraph 1.

3. The quantities indicated in paragraph 1 may be imported as follows:

— 50 % in the period 1 July to 31 December 1996,

— 50 % in the period 1 January to 30 June 1997.

If, during the period 1 July 1996 to 30 June 1997, the quantities for which licence applications are submitted for the period specified in the first indent are less than those available, the balances shall be added to the quantities available for the following period.

Article 2

1. In order to qualify for the import quotas referred to in Article 1:

(a) applicants for import licences must be natural or legal persons who, at the time applications are submitted, can prove to the satisfaction of the competent authorities of the Member State concerned that they have been active in trade in beef and veal with third countries during the last 12 months and are entered in a national VAT register;

(b) licence applications must be submitted only in the Member State in which the applicant is registered;

(c) for each of the groups of products referred to in the first and second indents of Article 1 (1):

— licence applications must cover a minimum of 15 tonnes of product without exceeding the quantity available in the period concerned,

— applicants may submit only one application,

— where an applicant submits more than one application for a group, all his applications for that group shall be rejected;

(d) in section 8 of licence applications and licences shall be entered:

— in the case of the first indent of Article 1 (1), the countries of origin,

— in the case of the second indent of Article 1 (1), the country of origin.

The licence shall carry with it an obligation to import from one or more of the countries indicated in it;

(e) in section 20 of licence applications and licences shall be entered at least one of the following:

— Reglamento (CE) n° 2155/96

— Forordning (EF) nr. 2155/96

— Verordnung (EG) Nr. 2155/96

— Κανονισμός (ΕΚ) αριθ. 2155/96

— Regulation (EC) No 2155/96

— Règlement (CE) n° 2155/96

— Regolamento (CE) n. 2155/96

— Verordening (EG) nr. 2155/96

— Regulamento (CE) nº 2155/96

— Asetus (EY) N:o 2155/96

— Förordning (EG) nr 2155/96.

2. Notwithstanding Article 5 of Regulation (EC) No 1445/95, more than one CN code relating to the group of products referred to in the first indent of Article 1 (1) may be entered in section 16 of licence applications and licences.

Article 3

1. Licence applications may be submitted only:

— between 25 and 29 November 1996, and

— between 3 and 13 February 1997.

2. Member States shall notify the Commission, within five working days of the end of the period for the submission of applications, of applications received.

Notification shall comprise a list of applicants broken down by quantity applied for, nomenclature code and country of origin of the products.

All notifications, including notifications of nil applications, shall be made by telex or fax, drawn up, where applications have been received, in accordance with the model set out in the Annex.

3. The Commission shall decide as soon as possible the extent to which licence applications may be issued for each group of products referred to in each indent of Article 1 (1). Where the quantities for which licence applications have been submitted exceed the quantities available, the Commission shall fix a single percentage reduction for the groups of products referred to in each indent of Article 1 (1).

4. Subject to the Commission's decision to accept applications, licences shall be issued promptly.

5. Licences shall be valid throughout the Community.

Article 4

1. Without prejudice to this Regulation, Regulations (EEC) No 3719/88 and (EC) No 1445/95 shall apply.

2. Article 8 (4) of Regulation (EEC) No 3719/88 shall not apply.

3. Notwithstanding Articles 3 and 4 of Regulation (EC) No 1445/95, the security for licences shall be ECU 12 per 100 kilograms net of product and licences shall be valid until 30 June 1997.

Article 5

Products shall qualify for the rights referred to in Article 1 on presentation of an EUR 1 movement certificate issued by the exporting country in accordance with Protocol 3 annexed to the free-trade Agreements.

Article 6

Regulation (EC) No 542/96 is hereby repealed.

Article 7

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

It shall apply from 1 July 1996.

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

Done at Brussels, 11 November 1996.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Fax: (32 2) 296 60 27

(Application of Regulation (EC) No 2155/96)

COMMISSION OF THE EUROPEAN COMMUNITIES DG VI/D/2 — BEEF AND VEAL

APPLICATIONS FOR IMPORT LICENCES AT REDUCED CCT DUTIES

Date: ..... Period: .....

Member State: .....

Country of origin	Order	Applicant (name and address)	Quantity (tonnes)	CN code number
		Total quantity applied for:		

Member State: fax number: .....

telephone number: .....

COMMISSION REGULATION (EC) No 2156/96

of 11 November 1996

on the issue of import licences for garlic originating in China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables [1], as last amended by Commission Regulation (EC) No 1363/95 [2],

Having regard to Council Regulation (EC) No 885/96 of 15 May 1996 concerning a protective measure applicable to imports of garlic from China [3] and in particular Article 1 (3) thereof,

Whereas pursuant to Commission Regulation (EEC) No 1859/93 [4], as amended by Regulation (EC) No 1662/94 [5], the release for free circulation in the Community of garlic imported from third countries is subject to presentation of an import licence;

Whereas Article 1 (1) of Commission Regulation (EC) No 885/96, restricts the issue of import licences for garlic originating in China to a maximum monthly quantity in the case of applications lodged from 1 June 1996 to 31 May 1997;

Whereas, given the criteria laid down in Article 1 (2) of that Regulation and the import licences already issued, the quantity applied for on 6 November 1996 is in excess of the maximum monthly quantity given in the Annex to that Regulation for the month of November 1996; whereas it is therefore necessary to determine to what extent import licences may be issued in response to these applications; whereas the issue of licences in response to these applications; whereas the issue of licences in response to applications lodged after 6 November 1996 and before 4 December 1996 should be refused,

HAS ADOPTED THIS REGULATION:

Article 1

Import licences applied for on 6 November 1996 under Article 1 of Regulation (EEC) No 1859/93 for garlic falling within CN code 0703 20 00 originating in China shall be issued for 0,19272 % of the quantity applied for, having regard to the information available to the Commission on 8 November 1996.

For the abovementioned products applications for import licences lodged after 6 November 1996 and before 4 December 1996 shall be refused.

Article 2

This Regulation shall enter into force on 12 November 1996.

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

Done at Brussels, 11 November 1996.

For the Commission

Franz FISCHLER

Member of the Commission

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(1) OJ No L 118, 20. 5. 1972, p. 1.
(2) OJ No L 132, 16. 6. 1995, p. 8.
(3) OJ No L 119, 16. 5. 1996, p. 12.
(4) OJ No L 170, 13. 7. 1993, p. 10.
(5) OJ No L 176, 9. 7. 1994, p. 1.

COMMISSION REGULATION (EC) No 2157/96

of 11 November 1996

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 1890/96 [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 multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

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 12 November 1996.

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

Done at Brussels, 11 November 1996.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ No L 337, 24. 12. 1994, p. 66.
[2] OJ No L 249, 1. 10. 1996, p. 29.
[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 11 November 1996 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 45	204	44,1
	999	44,1
0707 00 40	052	68,5
	624	91,4
	999	80,0
0805 20 31	052	82,1
	204	97,5
	999	89,8
0805 20 33, 0805 20 35, 0805 20 37, 0805 20 39	052	53,4
	999	53,4
0805 30 40	052	66,1
	388	45,2
	524	52,6
	528	47,7
	600	54,6
	999	53,2
0806 10 50	052	126,1
	400	258,2
	999	192,2
0808 10 92, 0808 10 94, 0808 10 98	060	55,6
	064	49,2
	400	70,0
	404	65,5
	999	60,1
0808 20 67	052	73,5
	064	78,6
	400	58,9
	624	63,6
	999	68,6

(1) Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ No L 14, 19. 1. 1996, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 2158/96

of 11 November 1996

determining the world market price for unginned cotton and the rate for the aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 on cotton, as last amended by Council Regulation (EC) No 1553/95 [1],

Having regard to Council Regulation (EC) No 1554/95 of 29 June 1995 [2] laying down general rules for the system of aid for cotton and repealing Regulation (EEC) No 2169/81, as amended by Regulation (EC) No 1584/96 [3], and in particular Articles 3, 4 and 5 thereof,

Whereas Article 3 of Regulation (EC) No 1554/95 requires a world market price for unginned cotton to be periodically determined from the world market price determined for ginned cotton, using the historical relationship between the two prices as specified in Article 1 (2) of Commission Regulation (EEC) No 1201/89 of 3 May 1989 laying down rules for implementing the system of aid for cotton [4], as last amended by Regulation (EC) No 1645/96 [5]; whereas if it cannot be determined in this way it is to be based on the last price determined;

Whereas Article 4 of Regulation (EC) No 1554/95 requires the world market price for ginned cotton to be determined for a product of specific characteristics using the most favourable offers and quotations on the world market of those considered representative of the real market trend; whereas to this end an average is to be calculated of offers and quotations on one or more European exchanges for a cif product to a North European port from the supplier countries considered most representative as regards international trade; whereas these rules for determination of the world market price for ginned cotton provide for adjustments to reflect differences in product quality and the nature of offers and quotations; whereas these adjustments are specified in Article 2 of Regulation (EEC) No 1201/89;

Whereas application of the above rules gives the world market price for unginned cotton indicated hereunder;

Whereas Article 5 (3) of Regulation (EC) No 1554/95 stipulates that the advance payment rate for the aid is to be the guide price less the world market price and less a further amount calculated by the formula applicable when the guaranteed maximum quantity is overun but with a 15 % increase in the estimate for unginned cotton production; whereas Commission Regulation (EC) No 1683/96 [6] determined estimated production for the 1996/97 marketing year; whereas application of these rules gives the advance payment rates for each Member State indicated hereunder,

HAS ADOPTED THIS REGULATION:

Article 1

1. The world market price for unginned cotton as indicated in Article 3 of Regulation (EC) No 1554/95 is set at ECU 31,759 per 100 kilograms.

2. Advance payment of the aid as indicated in Article 5 (3) of Regulation (EC) No 1554/95 shall be at the rate of:

— ECU 62,848 per 100 kilograms in Spain,

— ECU 32,340 per 100 kilograms in Greece,

— ECU 74,541 per 100 kilograms in other Member States.

Article 2

This Regulation shall enter into force on 12 November 1996.

(1) OJ No L 148, 30. 6. 1995, p. 45.
(2) OJ No L 148, 30. 6. 1995, p. 48.
(3) OJ No L 206, 16. 8. 1996, p. 16.
(4) OJ No L 123, 4. 5. 1989, p. 23.
(5) OJ No L 207, 17. 8. 1996, p. 3.
(6) OJ No L 217, 28. 8. 1996, p. 1.

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

Done at Brussels, 11 November 1996.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 2159/96

of 11 November 1996

amending Regulation (EEC) No 1627/89 on the buying in of beef by invitation to tender

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal [1], as last amended by Regulation (EC) No 1997/96 [2], and in particular Article 6 (7) thereof,

Whereas Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying in of beef by invitation to tender [3], as last amended by Regulation (EC) No 2003/96 [4], opened buying in by invitation to tender in certain Member States or regions of a Member State for certain quality groups;

Whereas the application of Article 6 (2), (3) and (4) of Regulation (EEC) No 805/68 and the need to limit intervention to the buying in of the quantities necessary to ensure reasonable support for the market result, on the basis of the prices of which the Commission is aware, in an amendment, in accordance with the Annex hereto, to the list of Member States or regions of a Member State where buying in is open by invitation to tender, and the list of the quality groups which may be bought in;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 1627/89 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 12 November 1996.

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

Done at Brussels, 11 November 1996.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ No L 148, 28. 6. 1968, p. 24.
[2] OJ No L 267, 19. 10. 1996, p. 1.
[3] OJ No L 159, 10. 6. 1989, p. 36.
[4] OJ No L 267, 19. 10. 1996, p. 12.

ANEXO — BILAG — ANHANG — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO — BIJLAGE — ANEXO — LIITE — BILAGA

Estados miembros o regiones de Estados miembros y grupos de calidades previstos en el apartado 1 del artículo 1 del Reglamento (CEE) nº 1627/89

Medlemsstater eller regioner og kvalitetsgrupper, jf. artikel 1, stk. 1 i forordning (EØF) nr. 1627/89

Mitgliedstaaten oder Gebiete eines Mitgliedstaats sowie die in Artikel 1 Absatz 1 der Verordnung (EWG) Nr. 1627/89 genannten Qualitätsgruppen

Κράτη μέλη ή περιοχές κρατών μελών και ομάδες ποιότητος που αναφέρονται στο άρθρο 1 παράγραφος 1 του κανονισμού (ΕΟΚ) αριθ. 1627/89

Member States or regions of a Member State and quality groups referred to in Article 1 (1) of Regulation (EEC) No 1627/89

États membres ou régions d'États membres et groupes de qualités visés à l'article 1er paragraphe 1 du règlement (CEE) nº 1627/89

Stati membri o regioni di Stati membri e gruppi di qualità di cui all'articolo 1, paragrafo 1 del regolamento (CEE) n. 1627/89

In artikel 1, lid 1, van Verordening (EEG) nr. 1627/89 bedoelde Lid-Staten of gebieden van een Lid-Staat en kwaliteitsgroepen

Estados-membros ou regiões de Estados-membros e grupos de qualidades referidos no nº 1 do artigo 1º do Regulamento (CEE) nº 1627/89

Jäsenvaltiot tai alueet ja asetuksen (ETY) N:o 1627/89 1 artiklan 1 kohdan tarkoittamat laaturyhmät

Medlemsstater eller regioner och kvalitetsgrupper som avses i artikel 1.1 i förordning (EEG) nr 1627/89

Estados miembros o regiones de Estados miembros	Categoría A					Categoría C		
Medlemsstat eller region	Kategori A					Kategori C		
Mitgliedstaaten oder Gebiete eines Mitgliedstaats	Kategorie A					Kategorie C		
Κράτος μέλος ή περιοχές κράτους μέλους	Κατηγορία Α					Κατηγορία Γ		
Member States or regions of a Member State	Category A					Category C		
États membres ou régions d'États membres	Catégorie A					Catégorie C		
Stati membri o regioni di Stati membri	Categoria A					Categoria C		
Lid-Staat of gebied van een Lid-Staat	Categorie A					Categorie C		
Estados-membros ou regiões de Estados-membros	Categoria A					Categoria C		
Jäsenvaltiot tai alueet	Luokka A					Luokka C		
Medlemsstater eller regioner	Kategori A					Kategori C		
	S	E	U	R	O	U	R	O
België/Belgique	×	×	×	×	×			
Danmark				×	×		×	×
Deutschland			×	×	×		×	×
España			×	×	×			
France				×	×		×	×
Ireland						×	×	×
Italia				×	×			
Nederland				×	×			
Österreich			×	×	×		×	×
Portugal			×	×	×			
Suomi				×	×			
Sweden				×	×			
Great Britain						×	×	×
Northern Ireland						×	×	×

COUNCIL REGULATION (EC) No 2160/96

of 11 November 1996

imposing definitive anti-dumping duties on imports of polyester textured filament yarn originating in Indonesia and Thailand, terminating the proceeding concerning imports of polyester textured filament yarn originating in India and collecting definitively the provisional duties imposed

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Article 23 thereof,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community [2], and in particular Article 12 thereof,

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

Whereas:

A. PROVISIONAL MEASURES

(1) The Commission, by Regulation (EC) No 940/96 [3] (hereinafter referred to as the 'provisional Regulation') imposed provisional anti-dumping duties on imports of polyester textured filament yarn (hereinafter referred to as 'PTY' or 'product concerned'), originating in Indonesia and Thailand, and falling within CN codes 5402 33 10 and 5402 33 90.

(2) With the same Regulation, it was provisionally concluded that imports of the product concerned originating in India, essentially due to their negligible import volume, had not contributed to the material injury suffered by the Community industry, and therefore it was considered unnecessary to impose provisional protective measures on these imports at that stage of the investigation.

(3) By Council Regulation (EC) No 1370/96 [4], the provisional duties were extended for a period of two months, up to 1 December 1996.

B. SUBSEQUENT PROCEDURE

(4) The provisional Regulation set up a time limit within which the parties concerned could make known their views in writing and apply to be heard orally by the Commission.

(5) Immediately after the imposition of the provisional measures on imports of PTY from Indonesia and Thailand, the interested parties were informed of the essential facts and considerations on the basis of which provisional measures had been adopted.

Comments thereon were received in writing from the following interested parties within the time limit set:

1. *Producers in Indonesia:*
   - PT Panasia Indosyntec (formerly: PT Hadtex Indosyntec),
   - PT Indo Rama Synthetics,
   - PT Polysindo Eka Perkasa,
   - PT Susilia Indah Synthetic Fibres Industries,
   - PT Vastex Prima Industries.
2. *Producers in Thailand:*
   - Sunflag (Thailand) Ltd,
   - Tuntex (Thailand) plc.

(6) Parties who so requested were also granted an opportunity to be heard orally by the Commission services.

(7) Parties were informed of the essential facts and consideration on the basis of which it is intended to recommend the imposition of definitive measures and the definitive collection of amounts secured by way of provisional duties. They also were granted a period within which they could make representations subsequent to this disclosure.

(8) The parties' oral and written comments were considered and, where appropriate, the provisional determinations were modified to take account of these comments.

C. PRODUCT AND LIKE PRODUCT

(9) The product under consideration is PTY, directly derived from polyester oriented yarn ('POY'). PTY

[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 209, 2. 8. 1988, p. 1. Regulation as last amended by Regulation (EC) No 522/94 (OJ No L 66, 10. 3. 1994, p. 10).
[3] OJ No L 128, 29. 5. 1996, p. 3.
[4] OJ No L 178, 17. 7. 1996, p. 1.

is used in both the weaving and the knitting sectors to make polyester or polyester/cotton fabrics.

It was concluded at the provisional stage of the investigation that PTY sold on the domestic markets of India, Indonesia and Thailand has similar basic characteristics and uses compared to that exported from those countries to the Community. Similarly, the PTY manufactued by the Community industry and sold on the Community market has similar basic characteristics and uses when compared to that exported to the Community from the countries in question.

(10) Since no new arguments were put forward by any of the parties concerned on the Commission's provisional findings on the product under consideration and the considerations made on like product, the facts and findings as set out in recitals 9 and 10 of the provisional Regulation, are confirmed by the Council.

D. DUMPING

1. India

(11) It was provisionally established by the Commission that the Indian exporters who cooperated in the proceeding had exported PTY to the Community during the investigation period at dumped prices, individual dumping margins ranging from 0,3 % to 42,9 %.

(12) Since no new arguments were advanced by any of the parties concerned as to the Commission's provisional conclusions on normal value, export price, comparison and hence the dumping margins provisionally established for exports to the Community of PTY originating in India, the facts and findings as set out in recitals 12 to 18 and 29 to 35 of the provisional Regulation are confirmed by the Council, as far as India is concerned.

2. Indonesia

Normal value

(13) The Indonesian exporters argued that, when their costs of production were compared to the corresponding domestic selling prices in order to assess whether domestic sales were made in the ordinary course of trade within the meaning of Article 2 (4) of Regulation (EEC) No 2423/88 (hereinafter referred to as the 'basic Regulation'), certain directly related selling expenses such as inland freight and packing had been included in the costs, whereas they had been deducted from the domestic prices.

After verification of additional data submitted in that respect by the companies concerned and retracing of the individual claims to the audited accounts of the companies, the provisional calculations on normal values, where warranted, were duly revised.

(14) The production of PTY of first quality, which was the only yarn exported by the Indonesian producers concerned to the Community, implies the manufacturing of PTY of inferior quality, so called substandard PTY. However, the Indonesian producers did not keep separate accounting data for each quality and, therefore, the costs associated with the first quality exported to the Comunity were not reasonably reflected in the producers' records.

At the provisional stage of the investigation, and in order to establish the cost of production of first quality PTY, the Commission estimated the cost of production of the substandard PTY by reference to the average variable manufacturing costs associated with the overall production of PTY only. This approach was considered reasonable, in particular given the relatively limited production of substandard PTY and its inevitable linkage with the production of first quality PTY. Furthermore, the allocation of the full cost of production on the basis of turnover did not appear to be an appropriate method, as not all the elements in the cost of production appeared to be associated with the production and sale of substandard PTY.

One Indonesian producer asked the Commission to reconsider the possibility of accepting the cost allocation method leading to the costs reported in the reply to the Commission's questionnaire, and which has been historically utilized by the exporter concerned.

Following this request, the Commission reviewed its provisional findings and considered the allocation method in question acceptable, though only to the extent that it reasonably reflected the costs associated with the production and sale of both qualities of PTY. This approach was extended to all Indonesian producers, since they all replied to the Commission's questionnaire using the same allocation method.

(15) At the request of the Indonesian producers, the Commission revised its provisional findings as regards the amount of financial expenses, as well as the criteria for the allocation of the net financial costs to the product concerned.

In this respect it was considered appropriate to offset against financial expenses only financial income, which showed a clear link with the production and sale of PTY. Furthermore, the allocation of net financial expenditure, which at the provisional stage of the proceeding had been made by reference to turnover, was modified to take separate account of products manufactured or merely traded.

(16) Since no further arguments were pursued by any of the parties concerned as to the Commission's provisional conclusions on normal value for Indonesia, the facts and findings as set out in recitals 19 to 23 of the provisional Regulation are confirmed by the Council, considering also the revisions made under recitals 13 and 14 above.

Export prices

(17) Two of the Indonesian producers sold PTY for export to the Community through two related trading companies located in Singapore. In the provisional determinations, the export prices were established by reference to the prices actually paid or payable for the products concerned when sold for export to the Community by the related trading companies in Singapore, since the prices charged by the Indonesian producers to the related Singaporean traders were considered as being influenced by this relationship, and thus not being reliable.

To establish a reliable export price to the Community from Indonesia, the prices charged from Singapore were adjusted to an ex-Indonesia level by deducting from the prices charged by the related companies in Singapore to the independent customers in the Community an average amount of 4 % of these prices, which was calculated by reference to the selling, general and administrative expenses incurred by the related companies in respect of the sales under consideration.

This approach was contested by the two Indonesian producers concerned, who argued that the said adjustment was too high. Alternatively, these producers proposed their own calculation method by singling out only some allegedly directly related selling expenses, thus ignoring the vast majority of all other expenses incurred by the related trading companies in Singapore.

The Council, however, confirms the provisional approach taken by the Commission, considering the degree of involvement of the related traders in the selling activities of the Indonesian producers. Furthermore, on the basis of the accounting data of the related traders, no additional information was provided by the latter, which would indicate that the adjustment applied was inappropriate.

(18) Since no further arguments were made by any of the parties concerned as to the Commission's provisional conclusions on export prices for exports to the Community of PTY originating in Indonesia, the facts and findings as set out in recital 29 of the provisional Regulation are confirmed by the Council as far as Indonesia is concerned.

Comparison

(19) Since no new arguments were made by any of the parties concerned as to the Commission's provisional conclusions on the comparison made between normal value and export prices, the facts and findings as set out in recitals 31 and 32 of the provisional Regulation are confirmed by the Council as far as Indonesia is concerned.

Dumping margins

(20) Taking into account the abovementioned revisions, the Council confirms, in applying the same methodology as used for the provisional assessment (see recital 34 of the provisional Regulation), the definitive dumping margins for the cooperating Indonesian exporters concerned as follows:

— PT Indo Rama Synthetics:	1,7 %
— PT Panasia Indosyntec (formerly: P.T. Hadtex Indosyntec):	5,4 %
— PT Polysindo Eka Perkasa:	10,9 %
— PT Susilia Indah Synthetic Fibres Industries:	8,8 %
— PT Vastex Prima Industries:	20,2 %

(21) Confirming the method chosen for the provisional assessment (see recital (35) of the provisional Regulation), the Council considered that the dumping margin for non-cooperating producers in Indonesia should be based on facts available and verified during the investigation. On that basis, it is considered that the highest definitive dumping margin, i.e. 20,2 %, found with regard to a producer in Indonesia which had cooperated in the investigation, should also apply to non-cooperating producers in that country.

3. **Thailand**

Normal value

(22) One Thai producer realized that the costs data, which it had submitted, contained an arithmetical material error. Indeed, in allocating the costs for

two raw materials produced by this company and used both in the production of PTY and in other polyester end-products, the company erroneously added to the PTY cost of production the total transformation costs of the aforementioned two raw materials, instead of considering the appropriate proportion for PTY only.

After verifying the revised additional data submitted in that respect by the company concerned, the Commission duly revised the normal value where warranted.

(23) One Thai producer argued that its costs during the investigation period were affected by the use of new production facilities, and certain cost items should therefore be adjusted accordingly.

The Commission could not share this approach, since no adjustment had been claimed in the Company's reply to the questionnaire or piror to the verification visit. Furthermore, the capacity utilization rates as well as the production costs of the company during the investigation period, which commenced eight months after the start-up of the production, appeared reasonable and in line with those incurred by most of the other PTY producers. The claim was therefore disregarded by the Commission.

(24) One Thai producer argued that its depreciation rate of 10 % on machinery, as reflected in its costs, was too high as compared to other Thai producers, and that its costs should therefore be adjusted accordingly by using a 5 % rate.

To apply a straight depreciation rate of 10 % on machinery is not uncommon. Furthermore, this rate is reflected in the accounting records of the company. The claim was therefore disregarded by the Commission.

(25) Since no further arguments were proffered by any of the parties concerned as to the Commission's provisional conclusions on normal value for Thailand, the facts and findings as set out in recitals 24 to 28 of the provisional Regulation are confirmed by the Council, considering also the revision made under recital 22 above.

Export prices

(26) Since no new arguments were put forward by any of the parties concerned as to the Commission's provisional conclusions on export prices for exports to the Community of PTY originating in Thailand, the facts and findings as set out in recital 29 of the provisional Regultion are confirmed by the Council.

Comparison

(27) One Thai producer argued that the normal credit rates applicable in respect to the currency expressed on the export invoice should be corrected.

After verifying the additional data submitted, the Commission duly revised, where warranted, the allowance for credit costs granted for the sales under consideration.

(28) Since no further arguments were advanced by any of the parties concerned as to the Commission's provisional conclusions on the comparison made between normal value and export prices, the facts and findings as set out in recitals 31 to 33 of the provisional Regulation are confirmed by the Council, with the exception of the revision under recital 27 above and as far as Thailand is concerned.

Dumping margins

(29) Taking into account the abovementioned revisions, the Council confirms, in applying the same methodology as used for the provisional assessment (see recital 34 of the provisional Regulation), the definitive dumping margins for the cooperating Thai exporters concerned as follows:

— Tuntex (Thailand) plc: 6,7 %

— Sunflag (Thailand) Ltd: 13,5 %

— Chareonsawatt Stretched Yarn Co. Ltd: 20,2 %

(30) Confirming the method chosen for the provisional assessment (see recital 35 of the provisional Regulation), the Council considered that the dumping margin for non-cooperating producers in Thailand should be based on facts available and verified during the investigation. On that basis, it is considered that the highest definitive dumping margin, i.e. 20,2 %, found with regard to a producer in Thailand which had cooperated in the investigation, should also apply to non-cooperating producers in this country.

E. COMMUNITY INDUSTRY

(31) In the absence of new evidence or any futher substantiated argument put forward by any of the parties concerned, the facts and findings set out in recitals 36 to 39 of the provisional Regulation are confirmed by the Council, i.e. the complainant

Community producers representing more than 50 % of the Community output of PTY constitute the Community industry, in accordance with Article 4 (5) of the basic Regulation

F. INJURY

(32) As mentioned under recital 20, the individual definitive dumping margin established for one of the Indonesian exporters is *de minimis*. Whether, under these conditions, the imports in question should be excluded from the injury assessment, does not need to be decided in the present case.

Indeed, even if these producers' imports were excluded from the injury assessment, the volume and the Community market share of the remaining dumped imports from Indonesia were still significant enough to justify the Commission's provisional conclusions in this respect.

(33) Since no new arguments were advanced by any of the parties concerned as to the provisional findings concerning the injury suffered by the Community industry, the Council confirms those findings as established in recitals 40 to 55 of the provisional Regulation, i.e. the exclusion of imports of PTY originating in India from the injury assessment due to its negligible market share, as well as the precarious situation of the Community industry, in particular the deterioration of its financial results, the decline in production, capacity utilization and market share, notwithstanding a certain increase in the Community consumption of PTY, which demonstrates that this industry has suffered material injury within the meaning of Article 4 (1) of the basic Regulation.

G. CAUSATION OF INJURY

(34) It was provisionally concluded that, notwithstanding the fact that imports from other third countries might have contributed to the injury suffered by the Community industry, the surge of Indonesian and Thai dumped imports of PTY into the Community at low prices has had a particular destabilizing impact on the Community market by lowering the price level on that market, and has led the Community industry to suffer a loss of profitability, thus causing material injury to this industry.

(35) Since no new arguments were advanced by any of the parties concerned as to the Commission's provisional conclusions on causation of injury, the facts and findings as set out in recitals 56 to 81 of the provisional Regulation are confirmed by the Council.

H. COMMUNITY INTEREST

(36) The Commission concluded at the provisional stage of the investigation that, after examining the various interests involved, it is in the Community interest to prevent a further decline in the already precarious situation of the Community industry and to re-establish, with the imposition of remedial measures, a fair and competitive economical environment in the Community market. Furthermore, it was considered necesary to ensure a non-discriminatory treatment with regard to imports of PTY originating in Indonesia and Thailand as compared to imports of PTY originating in other third countries at present subject to anti-dumping measures.

(37) On this basis, the Council confirms, as set out in recitals 82 to 93 of the provisional Regulation, that the Community interest calls for the imposition of definitive anti-dumping measures on imports of PTY originating in Indonesia and Thailand.

I. DEFINITIVE DUTY

India

(38) Given the above confirmed provisional conclusions with regard to exports of PTY to the Community originating in India (insignificant market share), the Council confirms that no definitive anti-dumping duty should be imposed and that the proceeding should be terminated in respect of this country.

Indonesia and Thailand

(39) For the purpose of establishing the level of the definitive measures to be imposed, and in line with the same methodology applied at the provisional stage of the investigation, the Council took account of the dumping margins found and the level of duty necessary to eliminate the injury sustained by the Community industry.

(40) It is confirmed at this definitive stage that for all Indonesian and Thai exporters concerned the level of the injury margins were higher than the dumping margins found, both being expressed as a

percentage of the CIF Community frontier price. Consequently, in accordance with Article 13 (3) of the basic Regulation, it is confirmed that the level of the duty should be based on the level of the dumping margins definitively established.

(41) With regard to the Indonesian company PT Indo Rama Synthetics, the Council confirms, considering that the individual definitive dumping margin established is *de minimis*, that the investigation be terminated without measures although the company shall remain subject to the proceeding and may be reinvestigated in any subsequent review carried out for Indonesia.

J. COLLECTION OF THE PROVISIONAL DUTY

(42) In view of the dumping margins definitively established and the substantial injury caused to the Community industry, the Council considers that the amounts secured by way of the provisional anti-dumping duties should be definitively collected at the level of the amounts of duties definitively imposed,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of polyester textured filament yarn, falling within CN codes 5402 33 10 and 5402 33 90 and originating in Indonesia and Thailand.

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

Indonesia

	Duty	*Taric additional Code*
— PT Panasia Indosyntec (formerly: PT Hadtex Indosyntec)	5,4 %	8884
— PT Polysindo Eka Perkasa	8,8 %	8886
— PT Susilia Indah Synthetic Fibres Industries	8,3 %	8887
— Others	20,2 %	8888

The duties shall not apply to imports of the products specified in paragraph 1 which are produced and exported by the Indonesian company PT Indo Rama Synthetics (Taric additional Code 8885).

Thailand

	Duty	*Tarif additional Code*
— Tuntex (Thailand) PLC	6,7 %	8889
— Sunflag (Thailand) Ltd	13,5 %	8907
— Others	20,2 %	8891

3. No anti-dumping duty shall be applicable to imports of the product specified in paragraph 1 and originating in India. The proceeding concerning imports of the product originating in India shall be terminated.

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

Article 2

1. The amounts secured by way of the provisional anti-dumping duties under Regulation (EC) No 940/96 shall be definitively collected at the rate of the duties definitively imposed. Amounts secured in excess of the definitive rate of anti-dumping duties shall be released.

2. The provisions referred to in Article 1 (4) shall also apply to the definitive collection of the amounts secured by way of the provisional anti-dumping duties.

Article 3

This Regulation shall enter into force on the day following that of 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, 11 November 1996.

For the Council

The President

R. QUINN