ISSN 0378-6978

Official Journal of the European Communities

L 158

Volume 40

17 June 1997

English edition

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(1) Text with EEA relevance

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1087/97

of 9 June 1997

authorizing imports into the Canary Islands of textile and clothing products and certain quota products originating in China without quantitative restrictions or measures with an equivalent effect

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas, according to Council Regulation (EEC) No 1911/91 of 26 June 1991 on the application of the provisions of Community law to the Canary Islands [1], the Council may allow derogations, at the request of the Spanish authorities, from the provisions of the common commercial policy applicable to the territory of the Canary Islands;

Whereas Spain has asked for such derogations and requests that quantitative restrictions applicable in the Community to imports of textile and clothing products and certain quota products originating in China be waived in respect of products intended for consumption in the Canary Islands;

Whereas, in the light of the special constraints facing the Canary Islands, the free trade arrangements in force at the time of Spain's accession to the Community and the low volume of trade involved, such a derogation would appear justifiable;

Whereas provisions should be adopted to ensure that products subject to derogation from the quantitative restrictions in force are exclusively for the internal market of the Canary Islands and that the Commission receives regular reports on the volume of imports and reconsignments;

Whereas, if the products in question are consigned to the rest of the Community customs territory, measures concerning quantitative restrictions must apply; whereas goods should therefore be accompanied by T5 documents as far as the customs office where they are released for consumption on presentation of the corresponding documents in order to ensure that they are subject to these measures,

HAS ADOPTED THIS REGULATION:

Article 1

Textile products falling within Chapters 50 to 63 of the Combined Nomenclature and those included in Annex II to Council Regulation (EC) No 519/94 of 7 March 1994 on common rules for imports from certain third countries and repealing Regulations (EEC) No 1765/82, (EEC) No 1766/82 and (EEC) No 3420/83 [2] shall be released for import into the Canary Islands without quantitative restrictions or measures having equivalent effect.

Article 2

1. The measures set out in Article 1 shall apply exclusively to products for the domestic market of the Canary Islands.

2. The competent Spanish authorities shall take all necessary measures to ensure compliance with paragraph 1, in accordance with the relevant Community provisions on end use set out in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [3].

Article 3

1. Should products subject to the measures set out in Article 1 be consigned to other parts of the Community customs territory, the competent Spanish authorities shall take all necessary measures for the collection of common customs tariff duties in accordance with Article 2 (2) of Council Regulation (EC) No 527/96 of 25 March 1996

[1] OJ No L 171, 29. 6. 1991, p. 1.

[2] OJ No L 67, 10. 3. 1994, p. 89. Regulation as last amended by Regulation (EC) No 1897/96 (OJ No L 250, 2. 10. 1996, p. 1).

[3] OJ No L 302, 19. 10. 1992, p. 1. Regulation as last amended by the 1994 Act of Accession.

temporarily suspending the autonomous Common Customs Tariff duties and progressively introducing the Common Customs Tariff duties on imports of certain industrial products into the Canary Isalnds (1). The goods in question shall also be subject to the relevant common commercial policy measures as laid down in the following Regulations:

— Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries (2),

— Council Regulation (EC) No 517/94 of 7 March 1994 on common rules for imports of textile products from certain third countries not covered by bilateral agreements, protocols or other arrangements, or by other specific Community import rules (3),

— Regulation (EC) No 519/94.

2. Any consignment of the products in question must be accompanied by a copy of control copy T5, issued according to Articles 472 to 484 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (4).

3. A copy of control copy T5 can only be issued upon presentation of the original or a copy of the related Communtiy import licence.

4. The T5 control copy delivered by the office of departure must include the following particulars:

— in box 8, 'Consignee': the name of the person in whose name the Community import licence is issued,

— in box 104:

'Mercancías que deben someterse, para su despacho a consumo fuera de las islas Canarias, a las restricciones cuantitativas aplicables en la Comunidad

Reglamento (CE) n° ... Derogación en las islas Canarias de las restricciones cuantitativas»

(Goods subject to the quantitative restrictions applicable in the Community on release for consumption outside the Canary Islands)

(Regulation (EC) No ... Derogation from a quantitative restrictions for the Canary Islands).

5. Documents accompanying goods moving under the Community internal transit procedure in accordance with Article 311 (c) of Regulation (EEC) No 2454/93 must include in box 44 a reference to the relevant T5 control copy.

6. The competent authorities at the office of destination shall, where appropriate, deduct the quantity shown on the licence.

Article 4

For products referred to in Article 1 which are subject to quantitative restrictions or other surveillance measures in Community territory, the competent Spanish authorities shall notify the Commission by the 15th of each month of the volume of imports which have been subject to derogations during the previous month and, where appropriate, of products that have been consigned towards the rest of the Community customs territory.

Article 5

This Regulation shall enter into force on the third 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, 9 June 1997.

For the Council

The President

G. ZALM

(1) OJ No L 78, 28. 3. 1996, p. 1.
(2) OJ No L 275, 8. 11. 1993, p. 1. Regulation as last amended by Regulation (EC) No 2231/96 (OJ No L 307, 28. 11. 1996, p. 1).
(3) OJ No L 67, 10. 3. 1994, p. 1. Regulation as last amended by Regulation (EC) No 1937/96 (OJ No L 255, 9. 10. 1996, p. 4).
(4) OJ No L 253, 11. 10. 1993, p. 1. Regulation as last amended by Regulation (EC) No 2153/96 (OJ No L 289, 12. 11. 1996, p. 1).

COMMISSION REGULATION (EC) No 1088/97

of 16 June 1997

amending Regulation (EC) No 1079/97 fixing the corrective amount applicable to the refund on cereals

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 market in cereals [1], as last amended by Commission Regulation (EC) No 923/96 [2], and in particular Article 13 (8) thereof,

Whereas Regulation (EC) No 1079/97 [3] fixes the corrective amount applicable to the refund on cereals; whereas a check has shown that the Annex is not in accordance with the opinion delivered by the Mangement Committee for cereals; whereas the Regulation in question should be corrected;

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1079/97 is replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 17 June 1997.

It shall be applicable with effect from 13 June 1997.

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

Done at Brussels, 16 June 1997.

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 156, 13. 6. 1997, p. 53.

ANNEX

to the Commission Regulation of 16 June 1997 fixing the corrective amount applicable to the refund on cereals

(ECU/tonne)

Product code	Destination (1)	Current	1st period	2nd period	3rd period	4th period	5th period	6th period
		6	7	8	9	10	11	12
0709 90 60	—	—	—	—	—	—	—	—
0712 90 19	—	—	—	—	—	—	—	—
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	—	—	—	—	—	—	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	—	—	—	—	—	—	—	—
1002 00 00 9000	—	—	—	—	—	—	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	—	—	—	—	—	—	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	—	—	—	—	—	—	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	01	0	0	0	– 25,00	– 25,00	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	—	—	—	—	—	—	—	—
1101 00 15 9130	—	—	—	—	—	—	—	—
1101 00 15 9150	—	—	—	—	—	—	—	—
1101 00 15 9170	—	—	—	—	—	—	—	—
1101 00 15 9180	—	—	—	—	—	—	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	01	0	0	0	0	0	—	—
1102 10 00 9700	—	—	—	—	—	—	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	—	—	—	—	—	—	—	—
1103 11 10 9400	—	—	—	—	—	—	—	—
1103 11 10 9900	—	—	—	—	—	—	—	—
1103 11 90 9200	—	—	—	—	—	—	—	—
1103 11 90 9800	—	—	—	—	—	—	—	—

(1) The destinations are identified as follows:
01 all third countries.

NB: The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ No L 214, 30. 7. 1992, p. 20).

COMMISSION REGULATION (EC) No 1089/97

of 16 June 1997

repealing Regulations (EC) No 2188/96 suspending the preferential customs duties and re-establishing the Common Customs Tariff duty on imports of small-flowered roses originating in Israel and (EC) No 80/97 re-establishing the preferential customs duty on imports of small-flowered roses originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip [1], as last amended by Regulation (EC) No 539/96 [2], and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community;

Whereas Council Regulation (EC) No 1981/94 [3], as last amended by Regulation (EC) No 592/97 [4], opens and provides for the administration of Community tariff quotas for certain products originating in Algeria, Cyprus, Egypt, Israel, Jordan, Malta, Morocco, the West Bank and Gaza Strip, Tunisia and Turkey and lays down detailed rules for extending and adapting those quotas;

Whereas Regulation (EC) No 1981/94, as amended by Council Regulation (EC) No 585/96 [5], fixes 1 January as the date for the opening of tariff quotas for fresh and dried cut flowers from Israel; whereas, however, the amendment introduced by Regulation (EC) No 585/96 was not taken into account in Commission Regulations (EC) No 2188/96 [6] and (EC) No 80/97 [7]; whereas Regulations (EC) No 2188/96 and (EC) No 80/97 should therefore be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Regulations (EC) No 2188/96 and (EC) No 80/97 are hereby repealed.

Article 2

This Regulation shall enter into force on 17 June 1997.

It shall apply from 1 January 1997.

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

Done at Brussels, 16 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

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(1) OJ No L 382, 31. 12. 1987, p. 22.
(2) OJ No L 79, 29. 3. 1996, p. 6.
(3) OJ No L 199, 2. 8. 1994, p. 1.
(4) OJ No L 89, 4. 4. 1997, p. 1.
(5) OJ No L 84, 3. 4. 1996, p. 8.
(6) OJ No L 292, 15. 11. 1996, p. 9.
(7) OJ No L 16, 18. 1. 1997, p. 81.

COMMISSION REGULATION (EC) No 1090/97

of 16 June 1997

amending Regulation (EC) No 2144/96 establishing the allocation of export licences for cheeses to be exported in 1997 to the United States of America under the additional quota resulting from the GATT Agreements

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1466/95 of 27 June 1995 laying down special detailed rules of application for export refunds on milk and milk products [1], as last amended by Regulation (EC) No 417/97 [2], and in particular Article 9 (a) (3) thereof,

Whereas Article 9 (a) of Regulation (EC) No 1466/95 requires that applications for export licences pursuant to that Article should be accompanied by an attestation from the designated importer relating to eligibility under the applicable rules in the United States of America for the issue of import licences; whereas, subsequent to the adoption of Commission Regulation (EC) No 2144/96 [3] as amended by Regulation (EC) No 2362/96 [4] it has been established that certain designated importers were ineligible; whereas the quantities relating to the applications concerned should be reallocated amongst other interested operators who received provisional licences for the same categories of cheese; whereas the Annex to Regulation (EC) No 2144/96 should therefore be amended in consequence, and such amendments should take effect as from the date of entry into force of that Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

In column 5 of the Annex to Regulation (EC) No 2144/96, the allocation coefficient '0,15625' is hereby replaced by '0,29895'.

Article 2

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

It shall apply from 8 November 1996.

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

Done at Brussels, 16 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ No L 144, 28. 6. 1995, p. 22.
[2] OJ No L 64, 5. 3. 1997, p. 1.
[3] OJ No L 286, 8. 11. 1996, p. 12.
[4] OJ No L 321, 12. 12. 1996, p. 13.

COMMISSION REGULATION (EC) No 1091/97

of 16 June 1997

amending Regulation (EC) No 1361/96 establishing a forecast balance for the supply to the Canary Islands of certain vegetable oils and amending Regulation (EEC) No 2257/92 laying down detailed rules for implementing the specific arrangements for supplying Madeira with certain vegetable oils

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 concerning specific measures for the Canary Islands with regard to certain agricultural products [1], as last amended by Regulation (EC) No 2348/96 [2], and in particular Article 3 (4) thereof,

Whereas, pursuant to Article 2 of Regulation (EEC) No 1601/92, Commission Regulation (EC) No 1361/96 [3] establishes the forecast balance for the supply of certain vegetable oils for the 1996/97 marketing year;

Whereas that balance can be revised during the course of the year in line with the islands' needs; whereas information supplied by the competent authorities justifies an increase in the quantity of vegetable oils intended for direct consumption for the 1996/97 marketing year; whereas, therefore, the forecast balance for the supply to the Canary Islands of that product should be adjusted;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 of Regulation (EC) No 1361/96 is hereby replaced by the following:

'*Article 1*

The quantities of the forecast supply balance for the Canary Islands for certain vegetable oils for the 1996/97 marketing year which qualify for exemption from customs duties on import or which benefit from the aid for supply from the rest of the Community shall be as follows:

CN code	Description	Quantity *(tonnes)*
1507 to 1516 (except 1509 and 1510)	Vegetable oils (except olive oil)	37 300 (1)

(1) 24 500 tonnes of which are for the processing and/or packaging sector.'

Article 2

This Regulation shall enter into force on the day 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, 16 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

(1) OJ No L 173, 27. 6. 1992, p. 13.
(2) OJ No L 320, 11. 12. 1996, p. 1.
(3) OJ No L 175, 13. 7. 1996, p. 17.

COMMISSION REGULATION (EC) No 1092/97

of 16 June 1997

imposing provisional anti-dumping duties on imports into the Community of advertising matches originating in Japan

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], as amended by Regulation (EC) No 2331/96 [2], 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 Community [3], as last amended by Regulation (EC) No 592/94 [4], and in particular Article 11 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

(1) In August 1994, the Commission announced by notice published in the *Official Journal of the European Communities* [5] the initiation of an anti-dumping proceeding concerning imports of advertising matches originating in Japan, and commenced an investigation.

(2) The proceeding was initiated as a result of a complaint lodged by the Fédération Européenne des Fabricants d'Allumettes (FEFA) acting on behalf of the most important producers of advertising matches in the Community whose collective output constitutes a major proportion of the total Community production of the product concerned. The complaint contained evidence of dumping and of material injury resulting therefrom which was considered sufficient to justify the initiation of an anti-dumping investigation.

2. Investigation

(3) The Commission officially advised the producers/exporters and importers known to be concerned, representatives of the exporting country and the complainants, of the initiation of an investigation and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

A number of producers/exporters in the country concerned, the complaining Community producers and several importers in the Community, made their views known in writing. Hearings were granted when requested.

(4) The Commission sent questionnaires to all parties known to be concerned by the investigation and received replies from the complaining Community producers, from four Japanese producers/exporters, and from five independent importes located in the Community.

(5) The Commission sought and verified all information it deemed necessary for the purpose of preliminary determination of dumping and injury and carried out investigations at the premises of the following companies:

(a) *complainant Community producers*

— Swedish Match Belgium SA, Geraardsbergen, Belgium,

— Fosforera Española SA, Madrid, Spain [6],

— Fosforeira Portuguesa, Lisbon, Portugal;

(b) *producers/exporters in the exporting country*

— Kobe Match Co. Ltd, Ibo-gun,

— Yaka Chemical Industry Co. Ltd, Himeji,

— Daiwa Trading & Industrial Co. Ltd, Himeji,

— Harima Match Company Co. Ltd, Himeji.

(6) The following independent importers located in the Community participated in the current proceeding by answering a specific questionnaire:

— JNB & Klug, Naerum, Denmark,

— Gadget Print PVBA, Brussels, Belgium,

— Ecodeux NV, Gent, Belgium,

— Werbeträger Vertriebs GmbH, Grande, Germany,

— Zündholz International, Meckesheim, Germany.

(7) The investigation of dumping covered the period 1 July 1993 to 30 June 1994 (hereinafter referred to as the 'investigation period').

[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 317, 6. 12. 1996, p. 1.
[3] OJ No L 209, 2. 8. 1988, p. 1.
[4] OJ No L 66, 10. 3. 1994, p. 10.
[5] OJ No C 214, 4. 8. 1994, p. 6.

[6] 100 % owned by Swedish Match.

The examination of injury covered the period 1 January 1990 to 30 June 1994.

The length of the investigation overran the period specified in Article 7 (9) (a) of Regulation (EEC) No 2423/88 (hereinafter referred to as 'the Basic Regulation') owing to its complexity, particularly the detailed checking of the many figures and arguments put forward during the course of the investigation. These had to be carefully analysed for the Japanese operators as well as for Community operators and the whole injury analysis had to be assessed in accordance with renewed submissions.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

(8) The product under consideration is advertising matches sold in the form of book or box matches (hereinafter referred to as 'advertising matches') falling within CN code 3605 00 00. Advertising matches are sold in a great variety of shapes, sizes and finishes. They can be distinguished from household matches, which fall under the same CN code, by means of an advertising logo or an advertising message printed on the outside of the cover or box, depending on the product.

(9) During the investigation, it was found that advertising matches sold on the Japanese market and exported from Japan to the Community and advertising matches produced and sold by the Community industry can be considered identical or closely comparable in their physical characteristics, their function and uses. Therefore, all these advertising matches are to be considered as one 'like product' within the meaning of Article 2 (12) of the Basic Regulation.

C. DUMPING

1. Normal value

(10) In order to decide whether normal value for the Japanese producers/exporters could be established in accordance with Article 2 (3) (a) of the Basic Regulation, on the basis of the prices for the relevant models of the like product, actually paid or payable in the ordinary course of trade by independent customers on the domestic market, the Commission carried out the following tests.

(11) Consideration was first given to whether the types of advertising matches sold by the four cooperating producers/exporters on the domestic market could be regarded as identical or directly comparable to the types of advertising matches sold for export to the Community. This was found to be the case.

(12) The Commission subsequently established, for each producer/exporter, whether its total domestic sales were representative in comparison with its total export sales of advertising matches to the Community. For each producer it was found that total domestic sales volume was in excess of 5 % of the volume of total export sales to the Community and it was consequently considered to be representative.

(13) For each of the individual types of advertising matches sold by the producers/exporters on their domestic market and found to be comparable to the types sold for export to the Community, the Commission also investigated whether domestic sales were taking place in sufficient quantities. Domestic sales, on a type basis, were considered to be sufficiently representative when the volume of each type sold domestically during the investigation period represented 5 % or more of the volume of the same type sold for export to the Community.

(14) The Commission further assessed for each type sold on the domestic market in representative quantities whether or not there were sufficient sales made in the ordinary course of trade by verifying what proportion of domestic sales was profitable.

(15) For a considerable number of types, the above conditions were met. In those circumstances, the normal value for each of these types was based on the prices paid or payable in the ordinary course of trade by independent buyers on the domestic market as set out in Article 2 (3) (a) of the Basic Regulation.

(16) In the remaining cases in which it was found that a type of product was not sold in representative quantities or when these sales were not made in the ordinary course of trade on the domestic market to permit a proper comparison in accordance with Article 2 (3) (a) of the Basic Regulation, normal value was constructed on the basis of Article 2 (3) (b) (ii) of the Basic Regulation. In that case, the Commission used the verified cost of manufacturing plus a reasonable amount for sales, general and administrative (SG&A) expenses and profit. The SG&A and profit were established, as a rule, with reference to other types of advertising matches sold by the same producer/exporter concerned.

In the case of one producer/exporter it was considered that its data on SG&A and profit could not be used as it did not have sufficient domestic sales in the ordinary course of trade of certain types of products, and because its own SG&A expenses and profits could not be used in the view of the signi-

ficant differences in SG&A and profit as between the various product types; SG&A and profit were therefore calculated for the company by reference to the sales made on the domestic market for the same types of product of other cooperating companies. This was considered to be a reasonable and reliable approach since other companies' data relating to the domestic sales of the corresponding product types were used only if those sales were found to be representative and made in the ordinary course of trade.

(17) In the course of the investigation it was also found that one company did not itself produce certain categories of advertising matches (book-matches) which it exported to the Community during the investigation period. The products in question were purchased from an unrelated producer in Japan which did not cooperate with the Commission in this proceeding. Since this producer/exporter did not have representative domestic sales of the traded product, normal value was provisionally based on the prices for comparable types of advertising matches manufactured and sold by another cooperating producer, in accordance with Article 2 (3) (c) of the Basic Regulation, as it was established that this other producer sold during the investigation period a substantial volume of identical models on the domestic market.

2. Export price

(18) All export sales of advertising matches to the Community have been made to independent customers in the Community. Consequently, the export price for all exporters/producers in Japan was established in accordance with Article 2 (8) (a) of the Basic Regulation, on the basis of the export prices actually paid or payable net of all taxes, discounts (including deferred discounts) and rebates.

3. Comparison

(19) For the purpose of a fair comparison, due allowance in the form of adjustments was made for differences which were claimed within the time limits specified and demonstrated to affect price comparability. Those adjustments were made when the company concerned was in a position to demonstrate the effect of alleged differences on prices and price comparability, in accordance with Article 2 (10) of the Basic Regulation, in respect of different levels of trade, guarantee costs, cost of transport and handling, credit cost and salesmen's salaries.

(20) Three companies claimed that normal value should be established only on the basis of the sales to unrelated distributors. The Commission found in the investigation that exports to the Community were exclusively made to distributors, whereas, as far as domestic sales were concerned, sales were made not only to unrelated distributors, but, also in a considerable number of transactions, to independent wholesalers or direct to end-users. In the circumstances, the Commission investigated whether any of these categories of doemstic customers, for the product concerned, had functions which were clearly distinct from those of distributors in the Community and whether any differences in function were reflected in the market concerned, in terms of the quantities sold, pricing policy and the pattern of prices charged.

The investigation demonstrated that for sales on the domestic market to the different categories of unrelated customers no discernible differences could be established, either in the quantities sold or in the pattern of prices charged. In most cases, it also has not been demonstrated to the satisfaction of the Commission that the different categories of customer on the domestic market would *de facto* have had different functions in the distribution channel between producers and end users.

In the absence of evidence of any discernible effect on prices, quantities sold or functions performed in the distribution chain, this claim has therefore been rejected.

Consequently, for the establishment of the normal value all domestic sales to first independent customers, whether to wholesalers or to distributors or to end users, have been taken into account.

(21) One company claimed an allowance for guarantee costs incurred. However, it was found during the verification that the goods delivered to Community customers, for which the claims were made, were not delivered in accordance with the order-confirmation and that this order had therefore to be manufactured again and delivered a second time. It was therefore considered not to be an issue of 'guarantees' for a delivered product but much more an issue of a product that was delivered but did not conform with the agreed and confirmed order-specification by the Japanese producer. The deliveries were for that reason not accepted by the customers.

The claim for guarantee allowance was therefore not considered to be justified and consequently rejected.

4. Dumping margins

(22) The comparison at an ex-factory level and at the same level of trade shows the existence of dumping for all cooperating companies, the dumping margin being equal to the amount by which the normal value exceeds the price for export to the Community.

(23) The weighted average dumping margins provisionally established for each producer/exporter, expressed as a percentage of the free-at-Community frontier price are as follows:

— Daiwa Trading & Industrial Co. Ltd	35,0 %
— Harima Match Company Co. Ltd	63,5 %
— Kobe Match Co. Ltd	12,2 %
— Yaka Chemical Industry Co. Ltd	23,3 %.

(24) In the case of companies which did not reply to the Commission's questionnaire or did not make themselves known, the Commission considers that for those companies the dumping margin should be determined on the basis of the facts available in accordance with Article 7 (7) (b) of the Basic Regulation.

These facts were considered to be those established and verified by the Commission during the investigation. Since the Commission has no reason to believe that non-cooperating companies would have practised dumping at levels lower than the highest dumping found and in order not to reward their non-cooperation, it was considered appropriate to apply the highest dumping margin found for a cooperating exporter/producer, namely 63,5 %.

D. DEFINITION OF COMMUNITY INDUSTRY

(25) In accordance with Article 4 (5) of the Basic Regulation and on the basis of the available information on the total production of advertising matches in the Community, the term 'Community industry' in the current proceeding is interpreted as referring to the Community producers of the like product whose collective output constitutes a major proportion of the total Community production who supported the complaint and who actively cooperated in the proceeding. The Community industry, as defined above, represents approximately 78 % of the total Community production of advertising matches.

(26) The investigation has shown that one of the Community producers supporting the complaint was also importing the dumped product subject to the proceeding. In these circumstances, the Commission had to examine whether, in the light of the provisions of Article 4 (5) of the Basic Regulation, this company should be excluded from the definition of 'Community industry'.

(27) In this respect it should be recalled that Article 4 (5) of the Basic Regulation does not provide for the automatic exclusion of producers who are themselves importing the dumped products, but requires the Commission to determine on a case-by-case basis whether the exclusion of any producer in this situation is warranted. For the purposes of carrying out this examination in the present case, it appeared appropriate to determine whether the company was primarily a producer with an additional activity based on imports, merely supplementing its Community production in order to be able to offer a complete range of products or whether it was an importer with relatively limited additional production in the Community.

In the present investigation, it was established that the product types imported represented less than 4 % of the producer's own production. This alone shows that the company's core interests remained in the Community. Therefore it was decided that this producer should not be excluded from the assessment of the Community industry.

The impact of the above imports was, however, disregarded when the injury factors pertinent to the Community industry were established. In addition, none of the complaining Community producers was found to be related to Japanese exporters for the product concerned.

E. INJURY

1. Consumption on the Community market

(28) For the purpose of this investigation, consumption has been established on the basis of the sales of the main market participants, taking into account total sales of advertising matches made by the Community industry, minus their declared exports, plus the imports originating in Japan, since no exhaustive information on the other non-complaining producers in the Community was available, nor were there any indications of other third country imports during the period of the injury investigation.

(29) Accordingly, consumption of advertising matches decreased from 441,2 million units to 383,6 million — that is, by 13 % in volume from 1990 to the investigation period, whereas the value of the market increased by 3 %.

2. Dumped imports

(a) *Volume and value*

(30) Even though household matches, which are not subject to the current investigation, also fall within the same CN code as the product concerned, all imports from Japan falling within CN 3605 00 00 were considered imported advertising matches, as no evidence was supplied to demonstrate that household matches originating in Japan were imported into the Community.

(31) The volume of imports of advertising matches from Japan from 1990 to the investigation period decreased from 161,2 million units to 139,8 million units — a decline of 13 %.

(32) These imports increased by 31 % when measured in value (ecu). It should be noted, however, that most of these imports were invoiced in Yen to Community-based customers. Therefore this development must be seen in the light of the appreciation of the yen against the ECU in the period 1992 and 1993.

(b) *Market share*

(33) During the whole period under examination, the share of the Community market, measured in volume, held by the Japanese exporters was stable at around 36 %. When measured in value, it increased by 24 %, reaching a level of 35,7 % during the investigation period from 29 % in 1990.

(c) *Prices of the dumped imports*

(34) For the purpose of the price analysis, four basic models, identified in the business as BX1, BX2, BX3 and BX3A, were taken into account. These models represent over 50 % of the total import of advertising matches made by the cooperating Japanese exporters in the Community.

(35) As mentioned in recital 32, Japanese export sales to the Community market were mainly drawn up in Japanese yen. On this basis, the average price increase of dumped imports was limited to 3 % from 1991 up to the investigation period.

A decrease of about 2 % occurred between 1993 and the investigation period.

On the basis of prices of exports by Japanese exporters converted into ecu, it appeared that Japanese prices increased by 40 %, reflecting the strong appreciation of the yen against the ecu.

(d) *Price undercutting*

(36) The investigation has shown that advertising matches were sold in the Community market to three categories of customers, depending on the size of their orders:

— the first category includes those customers whose orders do not exceed 5 000 units,

— the second includes those purchasing from 5 001 to 55 000 units,

— the third covers all larger orders.

The various categories are reflected in the price lists of the various sellers of advertising matches in the Community.

(37) It was also found that whilst Japanese sales are concentrated on orders of not more than 10 000 units, that is, on small and on some of the medium-sized orders, the Community industry sold to all the above categories of customers.

This is demonstrated by the fact that 46 % of the volume of the Japanese products are sold to the first category of customers, 44 % to the second category and only 10 % to customers belonging to the third category.

The Community industry sold 16 % to the first category, 30 % to the second and 54 % to customers ordering over 55 000 units.

(38) According to this breakdown, the prices charged to independent customers by Japanese exporters were compared with the prices charged for identical models of advertising matches by the Community industry in the Community market, separately for the above three categories of customers.

(39) As Japanese products were imported through unrelated importers which re-sold them to users, whereas most of the Community industry sales were directly made to such users, the average Japanese sales prices charged to the first independent importers in the Community, on a model-by-model basis, had to be duly adjusted to a level of trade comparable to that of the Community industry in order to ensure a fair comparison.

In order to arrive at the same level of trade as the Community industry, the Commission examined the data provided by the cooperating, unrelated importers of the like product.

One importer submitted sufficient, representative and reliable data for this purpose; import prices, as determined at a cif Community-frontier level, were thus adjusted upwards by a margin of 33 %.

(40) Furthermore, it was found that six identical types of advertising matches, namely 5L-BX3/BX3A, BX1, 5H-BX5/BX5A, BM20-BK2, BMJ18-BK3 and BMJ20, were representative of both the Community industry and Japanese export sales in the Community market and were thus used for the price comparison.

In this way about 84 % of the Community industry's sales volume and approximately 65 % of that of the cooperative Japanese exporters were covered in this exercise.

As a result, this comparison showed undercutting with respect to all Japanese exporters, the average undercutting margins expressed as a percentage of the Community industry sales price being 6,2 %. For the various sales segments the average undercutting margins were established at 5,5 % for small orders, 6,5 % for medium orders and 7,2 % for large orders.

(41) Those relatively limited price undercutting margins should be considered in the light of profitability and price movements of the Community industry, analysed in detail below, and should also be set against the price movements of Japanese imports. Indeed, it was established that the Community industry's profitability deteriorated steadily, and that losses were mainly incurred in the sales segments where Japanese products were particularly present.

As regards sales-price movements, it was found that from 1991 to the investigation period, Community industry sales prices increased only by 4 %, while Japanese prices, expressed in ecu, increased by 40 %, but were still undercutting those of the Community industry.

3. Situation of the Community industry

(a) *Sales volume and value*

(42) The sales volume of advertising matches made by the Community industry — purchases of Japanese products being disregarded — declined between 1990 and the investigation period by 36 million units, a decrease of 12,8 %. Two hundred and eighty million units had been sold in 1990, whereas 244 million units were sold during the investigation period. The decrease in the value of sales was about 3 % during the same period.

(b) *Market share*

(43) On the basis of the above data, the development in market share showed that the share of the Community market measured in volume held by the Community industry was stable (63,4 % in 1990 and 63,5 % during the investigation period). With respect to the market as measured in value terms, its share decreased from 70,9 to 64,2 % — that is to say, by about 10 %.

(c) *Production, capacity and capacity utilization*

(44) Production of the Community industry was stable during the period under examination at around 306 million units. It decreased by 8,2 % from 1990 to 1992, but increased by 13 % from 1992 to 1993.

As far as production capacity and its utilization are concerned, the Commission found during the investigation that no meaningful basis existed for its measurement. This was essentially due to the highly versatile use of the production equipment concerned as well as the variable production runs resulting from orders of varying sizes and relative set-up times required.

(d) *Price development of the Community industry*

(45) The movement of the prices of the Community industry was assessed on the basis of prices charged in the Community market for the types of advertising matches produced by the Community industry comparable to those exported by the Japanese exporting producers.

Most of the types of advertising matches used for this price analysis (80 %) are comparable with the Japanese ones analysed in recital 34 which ensures that there is a considerable overlap in the various types investigated.

(46) From 1991 up to the investigation period, even though the average sales prices charged by the Community producers increased by 4,3 %, the level of prices was not sufficient to allow this industry to cover its costs during the investigation period. Furthermore, it should be added that for the period 1992 to 1993 prices of the Community industry could not be increased and were 4 % lower than the 1991 level.

(e) *Profitability*

(47) The Commission has examined the internal cost allocation and the related profitability assessment presented by the Community industry. Some allocation of costs pertinent to previous years, such as restructuring costs, the allocation of other costs related to 1993 and other expenses which could not be justified were disregarded in assessing profitability during the investigation period.

(48) It was established that the Community industry's overall profitability for the product concerned deteriorated from a profit of 2,6 % in 1992 to losses of 0,9 % during the investigation period. However, to be meaningful, facts and figures relating to profitability have been analysed in the light of the particular market situation for these products, namely per sales segment as defined in recital 36.

(49) Japanese sales are concentrated on orders of no more than 55 000 units, i.e. small and medium orders (see recital 37) where they represented over 90 % of the total Japanese sales volume to the Community or more than 32 % of the total market. The Commission therefore reached the conclusion that the sales of adversiting matches by Japanese producers are targeted at particular segments of the Community market.

(50) In parallel, it was found that the Community industry's profitability developed differently according to the different categories of customers. The average profitability for sales on small and medium orders, representing about 46 % of the sales volume of the Community industry, declined from a profit of 3,36 % on turnover in 1991 to losses of 8,9 % during the investigation period.

Meanwhile, in the segment of large orders, where Japanese products are not so much in evidence as in the other two segments, sales remained profitable at a level of around 6 % of turnover throughout the same period.

However, even in this category, the Commission industry incurred losses on the sales of one of the main types of advertising matches used for the undercutting exercise and reported under recital 40; another was sold at a considerably lower profit margin. It can therefore be concluded that this segment was less affected by dumped Japanese imports but still suffered a loss of profitability.

(f) *Cash flow*

(51) Cash flow was established at company-wide level as the figures for the products concerned were not available. The activities of the Community industry, other than those related to the product concerned (namely sales of household matches and trading activities), represented over 20 % of the total.

The overall cash flow generated declined by over 22 % from 1992 to 1993. This in itself suggests that the capacity for self-financing in the Community industry was significantly reduced. As the operating profit for the products concerned decreased, the reduction of the cash flow cannot be attributed to any other activities performed by the industry concerned, which remained profitable.

(g) *Investments*

(52) Despite the deterioration of its overall financial situation, from 1990 up to 1993 the Community industry has mainly invested in equipment used for printing. For the following years, further investments were planned; however, they will depend on improvement of the cash flow and of the generally negative financial situation of the Community industry.

(h) *Employment*

(53) Employment in the sector of advertising matches between 1990 and the investigation period decreased by 13 % and the poor financial situation of the Community industry in the investigation period puts the future of several hundred more jobs in jeopardy.

4. Conclusions on injury

(54) From 1990 up to the investigation period, the Community industry, confronted with dumped imports of low-priced advertising matches originating in Japan, has lost an important share of the market as measured in value (about − 10 %) while Japanese imports increased theirs by 24 %. Those imports maintained a high market share throughout the whole period under examination.

Despite the fact that the volume of production could be maintained and prices slightly increased, it was found that sales prices of the Community industry during the investigation period were below the cost of production and that these sales prices were being undercut by those of imports originating in Japan. The analysis of profitability has shown that the results are highly negative in certain segments of the market.

(55) In addition, cash flow decreased considerably and the necessary investments, for instance in printing technologies, could not be made without compromising the whole financial situation of the Community industry. Furthermore, employment had to be significantly reduced and the remaining jobs are still in jeopardy owing to the precarious financial situation in this sector.

(56) In these circumstances, the Commission concluded that the Community industry has been suffering material injury in accordance with Article 4 (1) of the Basic Regulation.

F. CAUSATION OF INJURY

(57) The Commission examined the extent to which the material injury suffered by the Community industry was caused by the impact of dumped Japanese imports, and whether other factors had caused or contributed to that injury in order to ensure that injury caused by these other factors was not attributed to the dumped imports concerned.

Such other factors considered were the changes in consumption, competition from other producers in the Community, other imports, the export performances of the Community industry and the behaviour of the main economic operators during the period under examination.

1. Impact of dumped imports from Japan

(58) It has been established that advertising matches produced by the Community industry and those imported from Japan are in direct competition with each other and that there are no differences in quality between them. The products are aimed at the same users, through comparable sales channels. Given the transparency of the market, the presence of low-priced dumped imports had a direct negative impact on the situation of the Community industry.

(59) To fully appraise the impact of imports from Japan it should be noted that, firstly, even though their volume had not increased since 1990, such imports have always represented a significant share of the Community market (over one-third).

Secondly, during the above period the Japanese share of the market increased in value by 24 % while the Community industry's share decreased by 10 %.

(60) Furthermore, it was found that throughout the whole period under examination Japanese prices were lower and undercut those of the Community industry. Although the former prices significantly increased during the investigation period, they were still lower and undercut the latter by an average of 6,2 %. At the same time, despite a slight increase in the average Community industry sales prices, its profitability for the product concerned was negative, and particularly so in the sales segments where Japanese products were strongly represented.

Consequently, this situation indicates that during the whole period under examination Community industry prices have been considerably suppressed in the face of low prices of dumped imports.

(61) Indeed, as regards sales to customers ordering small and medium quantities of advertising matches, where sales of the Japanese products are concentrated, the Community industry's profitability was highly negative (– 8,9 %). An average profit of 6 % was achieved for sales to large customers where sales of Japanese products were negligible.

This demonstrates that its difficulties are linked to, and directly commensurate with, the presence of dumped Japanse imports in the market.

(62) The examination of the impact of dumped imports on the Community industry concerned should also be seen in the light of the magnitude of the actual dumping margin for the exporters concerned, which was found to be 28 % on average.

2. Impact of other factors

(a) *Changes in consumption*

(63) Between 1990 and the investigation period the volume of consumption in the Community decreased by about 13 %; but its value increased by 7 %. The decrease in volume is due to several factors, such as the decrease in the number of smokers, the outlawing of advertising for tobacco products in certain Member States, competition from other advertising products (such as advertising lighters) and a general recessive situation in the Community market (1992 to 1993).

However, it should be pointed out again that during this period, the Community industry lost 10 % of its market share in value, while Japanese exporters increased theirs by 24 %.

Furthermore, Japanese advertising matches are concentrated on particular sales segments and since 1990 their position in certain segments strengthened to the extent that they were better represented than the Community industry after the recessive period.

The overall market share of the Japanese exporting producers in volume terms still being higher than the share measured in value terms points to the fact that on average Japanese sales prices are lower than those of the Community industry, and indicates that low-priced, dumped Japanese imports had a negative, ongoing impact on the Community industry over the years during the injury examination, running counter to the changes in consumption.

(b) *Other Community producers of advertising matches*

(64) The other producers of advertising matches in the Community are mainly located in Italy, Spain and France and represented 22 % of total Community production during the investigation period. No information was available; nor was any evidence submitted or found to demonstrate that those other producers might have had an injurious material impact on the complaining industry, and that their economic situation developed in a different way from that of the Community industry.

On the contrary, the available data concerning the largest non-complaining Community producer shows that its sales and production decreased significantly over the period under examination. It can therefore be concluded that the other producers in the Community faced the same difficulties as the complainant producers, and that their impact on the injurious situation of the latter, if any, was very limited.

(c) *Other imports to the Community*

(65) On the basis of the available statistics it was found that other imports to the Community under the same CN code as advertising matches had taken place. These imports were limited to shipments originating in Poland and Croatia. However, they were regarded as imports of household matches since according to the information available, no production of such products takes place in these countries.

Consequently, imports of the products concerned from other third countries were considered negligible and therefore could not have contributed to the deterioration of the situation of the Community industry.

(d) *Export performances and other activities of the Community industry*

(66) The export activity of the Community industry has always represented a limited part of its overall sales. From 1990 up to the investigation period exports outside the Community represented about 14 % of total sales by the Community industry of the products concerned and remained stable during the whole period. Therefore the deteriorating situation of the Community industry cannot be attributed to a fall in export sales.

(67) The Community industry's other business activities represented about 20 % of its total sales during the investigation period. It was established that these other activities (namely trading of advertising matches and production and sales of household matches) were profitable and that the difficulties of the Community industry could not be attributed to those activities.

(e) *Changes in the general economic situation*

(68) In order to evaluate fully the development of the behaviour of the main economic operators a chronological, detailed analysis of the period under investigation has been carried out.

(69) In this respect, the general negative tendency in the Community market has also caused a certain market downturn in the advertising-matches sector during the period under investigation. Given its general nature, the effects of a downturn would thus affect all economic operators in a comparable way. An analysis of the results of the current investigaiton has, however, shown that this was not the case.

(70) Indeed, in 1992 compared to 1990, the volume of consumption decreased by about 9 % in the Community as a whole. During this same time period, the Community industry reduced its prices by 4 % on average; sales volume decreased by 14 % and the relative market share by 5 %; production also decreased by 8 %.

During the same period, Japanese export prices, while remaining significantly lower than the Community industry prices, increased by 7 % on average, without any negative consequences on the volume of imports which remained stable. On the contrary, the result was that in a shrinking market the volume of the share of the market held by Japanese exporters increased by 8 %.

(71) During the above same period, when consumption in the Community market measured in value also decreased by 3 %, Community industry sales decreased by 11 % with a relative loss of 8 % in market share. In contrast, Japanese import value increased by 16 % and the relative market share by 21 %.

(72) In 1993, compared to 1992, despite signs of recovery in the Community industry (increase of production, volume and value of the market share and a slight increase in sales prices), any improvement was heavily hampered by the large market share held by the dumped imports (over 34 %) combined with the low level of prices applied by the exporters under investigation which still decreased by 2 % when analysed using the invoice currency, namely the yen.

Owing to the low price level imposed by Japanese imports, Community prices in 1993 were 4 % lower than the 1991 price level; consequently the financial situation of the Community industry had deteriorated.

(73) From 1993 to the investigation period, consumption in volume again decreased by 9 % and the Community industry, after two years of depressed prices, increased its average sales prices, although still without reaching a profitable level. This was due to a decrease in the sales volume of 11 %, a loss of 2,5 % in market share and a decrease of 4 % in production.

(74) During the same period, while consumption in value decreasd by 5 %, the value of Community industry sales decreased by 4 % and market share by 3 %. In the meantime, the market share of Japanese imports increased by over 2 % in volume and 10 % in value.

(75) The above chronological analysis from 1990 up to the investigation period is indicative of the size of the gap that has always existed between Japanese prices and those of the Community industry. Indeed, it is clear that before the yen appreciated Japanese prices were significantly undercutting those of the Community industry. During the investigation period, even after the strong appreciation of the yen and the consequent increases in ecu, Japanese prices were still undercutting those of the Community industry. Thus, throughout all the years examined the Community industry suffered an injurious situation.

3. Conclusion on causality

(76) The imports under investigation had a material impact on the Community industry due to the combined effects of high market share, especially in certain sales segments, the low level of their prices and the resulting negative return on sales of the Community industry, especially in the segments where the presence of dumped low priced imports was strongest.

(77) Given that advertising matches are technically a simple product, offered through similar sales channels to the same users in the Community, the Commission considers that the low-priced imports had a substantial negative impact on the deteriorating situation of the Community industry. The market being transparent, the low prices of these imports were well-known by the Community industry's present and potential customers.

(78) For all the reasons above, although the negative situation of the Community industry has not been caused solely by imports of the product concerned from Japan, it must be concluded that the impact of low import prices and the high maket share of dumped imports, taken in isolation, has caused material injury to the Community industry.

G. COMMUNITY INTEREST

1. General

(79) On the basis of all the available information, the Commission examined whether it could be clearly concluded that it would not be in the Community interst to apply measures.

For this purpose, the Commission has considered the impact of possible measures and the consequences of not taking any.

2. Consequences for the Community industry

(80) When assessing the Community interest, special consideration has to be given to the need to eliminate the trade-distorting effects of injurious dumping and restore effective competition. Indeed, the Commission found that during the period under investigation the Community industry has made efforts to rationalize production, and has invested in order to remain competitive and maintain its market share. This demonstrates that the industry is not ready to abandon this segment of production.

(81) As a matter of fact, the investigation has shown that the Community industry is still competitive and globally viable. However, owing to the high quantities of low-priced imports, its economic situation has been considerably weakened since 1990, as the poor return on sales to small customers, price depression and price suppression on the Community market clearly indicate. This negative situation cannot be sustained in the longer term.

(82) When examining the Community interest in relation to the Community industry, the Commission has to take into consideration the future development of its situation if dumped imports from Japan are allowed to continue. The facts available suggest that this would lead to further negative effects on profitability, investments and employment.

3. Impact on importers and traders

(83) Only a limited number of importers made their views known to the Commission. Some of them fully cooperated in the preliminary determination of dumping and injury; others preferred not to do so. All the submissions received were examined as explained below.

(84) One company lcoated in the United Kingdom producing and importing the product concerned was opposed to the imposition of anti-dumping measures on Japanese imports. It claimed that this would have adverse effects not only on Japanese exports, but also on its subsidiary activities developed in the United Kingdom and would cause supply shortages for small customers.

It further claimed that the main Community producer, part of the complaining industry, was not interested in customers whose orders were below 10 000 units and that, therefore, the only reliable source of supply for small orders was through Japanese exporters.

(85) Aside from the fact that this particular company did not cooperate with the Commission in the current investigation and that therefore the allegations were not substantiated nor could they be verified, it was established on the basis of the facts made available by the Community industry during the investigaiton period that its sales volume to customers whose orders were below 10 000 units represented about 28 % of the total sales volume during the investigation period. In value those sales represented over 37 % of its total sales in the Community. Contrary to the abovementioned allegation, this underlines the fact that the Community industry is fully present in this market segment.

(86) Another importer claimed that there are agreements between some Community producers and some eastern European countries to switch production to those countries. Under those circumstances, the measures could not have any positive impact on future employment in the Community. On the contrary, any measures would further increase unemployment in the Community at the level of importers. Community producers would thus gain such an advantage as to eliminate Japanese competition definitively and all unrelated importers in the Community.

(87) The Commission did not receive any evidence supporting this claim. Given its highly speculative nature it is considered appropriate not to take this submission into account.

(88) Other unrelated importers who made themselves known and who cooperated with the Commission put forward the following main reasons and concluded that imposing measures would be against the Community interest.

Any measures would have direct negative consequences on the importers of advertising matches from Japan due to an increase in their costs and reduction of their profits. Negative effects would consequently also be felt by the users, obliged to pay higher prices for the product concerned. Any action to protect the Community industry would therefore lead to adverse effects on prices, costs and employment.

(89) The Commission considers that the advantages that the absence of measures would entail for a very limited number of importers have to be seen against the overall disadvantages for the Community industry as a whole and its economic situation. Indeed, without the imposition of measures, plant closures in the Community are probable with all the attendant negative consequences for the economy.

4. Impact on users

(90) To assess the impact of whether or not do apply measures on the users, the Commission has determined who are the potential users of advertising matches in the Community market. These are restaurants, hotels and bars (47 %), various other sectors (finance, industry, services, etc.) (35 %) and the tobacco producers (18 %).

(91) The impact on the users would mainly be in the form of an increase in the sales prices of advertising matches. Taking into account the fact that advertising matches only cover a minute portion of the advertising budget of the above users, the Commission is of the opinion that the effects of any such price increase would be limited.

Furthermore, competition among the various other advertising supports, such as advertising lighters, ball-point pens, etc., should keep any price increases of advertising matches to a negligible level.

(92) On the basis of the above elements, and in view of the fact that taking measures would not lead to a foreclosure of the Community market, it can be concluded that a possible price increase would not put the Community users, among themselves, at a disadvantage.

5. Impact on the competititve environment in the Community market

(93) Importers of the dumped products have claimed that imposition of anti-dumping measures would strengthen the position of the complaining industry which already represents 78 % of the whole Community production and whose market share is over 50 % of the Community's market overall. They claimed in particular that following the imposition of measures, the Community industry would set prices in the Community market at such low levels that the importers would simply be eliminated from it.

(94) While the Commission recognizes that the Community industry holds an important position on the Community market, it cannot be concluded, on the basis of the available facts, that anti-dumping measures would result in an abuse of such a position by the complainants.

As far as the alleged price strategy of the Community industry is concerned, for such a low price policy to achieve its aim it would need to be applied in the long term. Given the poor financial situation of the Community industry, the Commission considers that such a policy would be self-defeating and therefore highly unlikely.

Furthermore, the Community market is by far the biggest market and source of revenue for the Community industry, whereas for Japanese exporters it is only secondary; and they could therefore resist much longer an unprofitable low-price policy than the Community industry.

(95) As regards the unrelated importers in the Community for which the Community market it also very important, it should be pointed out that despite the fact that their price policy largely depends on the relative behaviour of their Japanese suppliers, they still benefit from dumped Japanese imports and therefore from unfair trade practices compared with other operators in the Community market.

In addition it has been established that the resale prices of Japanese advertising matches adjusted on the basis of the financial data submitted by the cooperative unrelated importers, are still below and undercut the prices of the Community industry.

On the basis of the abovementioned facts, the Commission cannot conclude that restoring fair-trade practices will have negative effects on competition nor on the importers themselves.

(96) Indeed, it should be noted that the measures proposed are not such as to foreclose the Community market to Japanse products. The presence of these products on the market is expected to continue. Secondly, once fair competitive conditions are restored in the Community market, new competitors might enter it, attracted by remunerative prices.

In any event, the benefit of a market governed by at least two main competitive forces would still be available for importers and users of the products concerned.

6. Conclusion on Community interest

(97) On the basis of the above facts and considerations, in particular, and having examined the arguments submitted by the importers of the product concerned, special consideration being given to the need to eliminate the trade distorting effects of injurious dumping and to restore effective competition, the Commission, on balance, found no compelling reasons for not taking provisional anti-dumping measures on the imports in question.

H. PROVISIONAL DUTY

1. Injury elimination level

(98) In establishing the level of the measures necessary to remove the injury caused by the dumped imports, the Commission compared export prices of the imports on a type basis with a price level which would allow the Community industry to cover its costs and achieve a reasonable profit.

(99) Accordingly, the export price of a given type of advertising matches imported from Japan, duly adjusted to the level of trade of the Community industry as mentioned in recital 39, was compared to the average actual cost of production of the Community industry for a comparable type, increased by a profit margin of 5 % on turnover. This profit could be regarded as a reasonable minimum, taking into account the need for investment and the amount which the Community industry could be expected to obtain in the absence of injurious dumping.

(100) The individual injury elimination level for each of the cooperative Japanese exporters was determined by expressing the necessary price increase to obtain non-injurious export prices as a percentage of the weighted average value of the imported advertising matches free-at-Community frontier.

2. Provisional measures

(101) According to Article 13 (3) of the Basic Regulation, the level of the provisional duties should be equal either to the margin of dumping or the amount necessary to remove injury, whichever is the lower.

(102) Individual injury margins for the cooperating Japanese producers were found to vary between 9,4 and 42,1 %.

Since the dumping margins provisionally found for three Japanese exporters were higher than their respective injury elimination levels, the rate of provisonal anti-dumping duty for those exporters should be based on the injury margins found.

(103) Since the dumping margin provisionally found for one particular Japanese exporter was lower than its individual injury elimination level, the rate of the provisional duty should be at the level of the dumping marging found.

(104) For producers in the country concerned who neither replied to the questionnaire nor otherwise made themselves known, the Commission considers that the appropriate anti-dumping duty should be at the level of either the highest dumping margin found or the highest margin required to eliminate injury, whichever is the lower.

Since the highest injury margin, namely 42,1 %, is lower that the highest dumping margin found, the residual duty for non-cooperating producers/exporters should be the highest injury margin found.

I. FINAL PROVISION

(105) In the interests of sound administration, a period should be fixed in which the parties concerned may make their views known in writing and request a hearing. Furthermore, it should be emphasised 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 advertising matches falling within CN code ex 3605 00 00 (Taric code: 3605 00 00*10) originating in Japan.

For the purposes of this Regulation, advertising matches are matches incorporating advertising matter other than or in addition to the logo or details of the match manufacturer.

2. For the purposes of this Regulation, the rate of the provisional anti-dumping duty applicable to the net free-at-Community-frontier price before duty shall be 42,1 %, with the exception of imports manufactured and exported by the following companies, which shall be subject to the following rate of duty:

(a) 23,7 % for products manufactured and exported by Daiwa Trading & Industrial Co. Ltd (Taric code 8022);

(b) 12,2 % for products manufactured and exported by Kobe Match Co. Ltd (Taric code 8023);

(c) 9,4 % for products manufactured and exported by Yaka Chemical Industrial Co. Ltd (Taric code 8024).

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

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

Article 2

Without prejudice to Article 7 (4) of Regulation (EC) No 2423/88, the parties concerned may make known their views in writing and apply to be heard orally 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.*

Subject to Articles 11, 12 and 13 of Regulation (EEC) No 2423/88, Article 1 of this Regulation shall apply for a period of four months, unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 16 June 1997.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION REGULATION (EC) No 1093/97

of 16 June 1997

laying down marketing standards applicable to melons and watermelons

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables [1], and in particular Article 2 (2) thereof,

Whereas Regulation (EC) No 2200/96, in Annex I, lists the products for which standards must be adopted; whereas, of the products listed in that Annex, no Community standards have yet been laid down for melons and watermelons; whereas it is therefore necessary to lay down marketing standards for those products; whereas, to that end, for the sake of transparency on the world market, account should be taken of the standards recommended for those products by the United Nations Economic Commission for Europe;

Whereas application of those standards should have the effect of keeping products of unsatisfactory quality off the market, directing production to meet consumers' requirements and facilitating trade under fair competitive conditions, thereby helping to improve the profitability of production;

Whereas those standards are applicable to all marketing stages; whereas transport over large distances, storage for more than a certain duration and the amount of handling to which products are subject can result in some degree of deterioration owing to the biological development of the product or its perishable nature; whereas such deterioration should be taken into account in the application of the standards to the marketing stages following consignment;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The marketing standards applicable to:

— melons falling within CN code 0807 19 00,

— watermelons falling within CN code 0807 11 00,

shall be as set out in Annexes I and II respectively.

2. The standards shall apply to all marketing stages under the conditions laid down in Regulation (EC) No 2200/96.

However, at stages following consignment the following tolerances shall be allowed:

(a) a slight loss of freshness and turgidity;

(b) for products other than the 'Extra' class, slight deterioration due to biological development and perishability.

Article 2

This Regulation shall enter into force on 1 July 1997.

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

Done at Brussels, 16 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ No L 297, 21. 11. 1996, p. 1.

ANNEX I

STANDARDS FOR MELONS

I. DEFINITION OF PRODUCE

This standard applies to melons of varieties (cultivars) grown from *Cucumis melo* L. to be supplied fresh to the consumer, melons for industrial processing being excluded.

II. PROVISIONS CONCERNING QUALITY

The purpose of the standard is to define the quality requirements of melons, after preparation and packaging.

A. Minimum requirements

In all classes, subject to the special provisions for each class and the tolerances allowed, the melons must be:

— intact [1],

— sound; produce affected by rotting or deterioration such as to make it unfit for consumption is excluded,

— clean, practically free from any visible foreign matter,

— fresh in appearance,

— practically free from pests,

— practically free from damage caused by pests,

— firm,

— free of abnormal external moisture,

— free of any foreign smell and/or taste.

The melons must be sufficiently developed and display satisfactory ripeness [2]. The development and condition of the melons must be such as to enable them:

— to withstand transport and handling, and

— to arrive in satisfactory condition at the place of destination.

B. Classification

Melons are classified in two classes defined below:

(i) *Class I*

Melons in this class must be of good quality. They must be characteristic of the variety or commercial type.

The following slight defects, however, may be allowed provided these do not affect the general appearance of the produce, the keeping quality and presentation in the package:

— a slight defect in shape,

— a slight defect in colouring (a pale colouring of the rind at the point where the fruit touched the ground while growing is not regarded as a defect),

— slight skin blemishes due to rubbing or handling,

— slight healed cracks around the peduncle of less than 2 cm in length that do not reach the pulp.

The length of the penduncle, in the case of fruit belonging to varieties that do not separate at the time of ripening, may not exceed 2 cm for the varieties of Charentais, Ogen and Galia type melons and 5 cm for other melons, but must in any case be present and intact.

[1] However, a small healed scar caused by automatic measurement of the refractometric index is not regarded as a defect.
[2] The refractometric index of the pulp must be at least 8 % measured at the middle point of the fruit flesh at the equatorial section.

(ii) *Class II*

This class includes melons which do not qualify for inclusion in Class I but satisfy the minimum requirements specified above.

The following defects may be allowed provided the melons retain their essential characteristics as regards the quality, the keeping quality and presentation

— defects in shape,

— defects in colouring (a pale colouring of the rind at the point where the fruit touched the ground while growing is not regarded as a defect),

— slight bruising,

— slight cracks or deep scratches that do not affect the pulp of the fruit and are dry,

— skin blemishes due to rubbing or handling.

III. PROVISIONS CONCERNING SIZING

Size is determined by the weight of one unit or by the diameter of the equatorial section.

The minimum sizes are as follows:

Sizing by weight:

— Charentais, Ogen and Galia type melons	250 g,
— other melons	300 g.

Sizing by diameter:

— Charentais, Ogen and Galia type melons	7,5 cm,
— other melons	8 cm.

When the size is expressed in terms of weight, the largest melon in each package may not weigh over 50 % more than the smallest.

When the size is expressed in terms of diameter, the diameter of the largest melon may not be over 20 % more than the diameter of the smallest.

Sizing is compulsory for both classes.

IV. PROVISIONS CONCERNING TOLERANCES

Tolerances in respect of quality and size shall be allowed in each package for produce not satisfying the requirements of the class indicated.

A. **Quality tolerances**

(i) *Class I*

10 % by number or weight of melons not satisfying the requirements of the class, but meeting those of Class II or, exceptionally, coming within the tolerances of that class.

(ii) *Class II*

10 % by number or weight of melons satisfying neither the requirements of the class, nor the minimum requirements, with the exception of produce affected by rotting or any other deterioration rendering it unfit for consumption.

B. **Size tolerances**

For all classes: 10 % by number or weight of melons not satisfying the size immediately below or above that indicated on the package.

V. PROVISIONS CONCERNING PRESENTATION

A. **Uniformity**

The contents of each package must be uniform and contain only melons of the same origin, variety or commercial type, quality and size, and which have reached appreciably the same degree of development and ripeness and are of appreciably the same colour.

The visible part of the contents of the package must be representative of the entire contents.

B. **Packaging**

Melons must be packed in such a way as to protect the produce properly.

The materials used inside the package must be new, clean and of a quality such as to avoid causing any external or internal damage to the produce. The use of materials, particularly of paper or stamps bearing trade specifications is allowed, provided the printing or labelling is done with non-toxic ink or glue.

Packages must be free from all foreign matter.

VI. PROVISIONS CONCERNING MARKING

Each package must bear the following particulars in letters grouped on the same side, legibly and indelibly marked and visible from the outside:

A. **Identification**

Packer and/or dispatcher: name and address or officially issued or accepted code mark. However, in the case where a code mark is used, the reference 'packer' and/or 'dispatcher' (or equivalent abbreviations) have to be indicated in close connection to the code mark.

B. **Nature of produce**

— 'Melons' if the contents are not visible from the outside,

— name of the variety or commercial type (e.g. Charentais).

C. **Origin of produce**

— country of origin and, optionally, national, regional or local place name.

D. **Commercial specifications**

— class,

— size expressed in minimum and maximum weight or minimum and maximum diameter,

— number of units (optional).

E. **Official control mark (optional)**

ANNEX II

STANDARDS FOR WATERMELONS

I. DEFINITION OF PRODUCE

This standard applies to watermelons of varieties (cultivars) grown from *Citrullus lanatus (Thunb.) Matsum. et Nakai* to be supplied fresh to the consumer, watermelons for industrial processing being excluded.

II. PROVISIONS CONCERNING QUALITY

The purpose of the standard is to define the quality requirements of watermelons after preparation and packaging.

A. **Minimum requirements**

In all classes, subject to the special provisions for each class and the tolerances allowed, the watermelons must be:

— intact,

— sound; produce affected by rotting or deterioration such as to make it unfit for consumption is excluded,

— clean, practically free from any visible foreign matter,

— practically free from pests,

— practically free from damage caused by pests,

— firm and sufficiently ripe; the colour and taste of the flesh should conform to a sufficient state of ripeness,

— not split,

— free from abnormal external moisture,

— free from any foreign smell and/or taste.

The development and condition of the watermelons must be such as to enable them:

— to withstand transport and handling, and

— to arrive in satisfactory condition at the place of destination.

B. **Classification**

The watermelons are classified in two classes defined below:

(i) *Class I*

Watermelons in this class must be of good quality.

They must be:

— well-formed, allowing for the characteristics of the variety,

— free of cracks and bruises; slight superficial cracks are not considered as defects.

A slight defect in colouring is allowed for the paler part of the melon which has been in contact with the ground during the period of growth.

The stem of the watermelon must not exceed 5 cm in length.

(ii) *Class II*

This class includes watermelons which do not qualify for inclusion in Class I, but satisfy the minimum requirements specified above.

The following defects may be allowed provided the watermelons retain their essential characteristics as regards the quality, the keeping quality, and presentation:

— slight defect in shape,

— slight defect in colouring of the rind,

— slight bruising or superficial defects due in particular to mechanical impact or to damage by parasites or diseases.

III. PROVISIONS CONCERNING SIZING

Size is determined by the weight per unit. The minimum weight is fixed at 1,5 kg.

When watermelons are presented in packages, the difference in weight between the lightest and the heaviest unit in the same package should not exceed 2 kg, or 3,5 kg if the lightest unit exceeds 6 kg.

This relative uniformity of weight is not compulsory for watermelons presented in bulk.

IV. PROVISIONS CONCERNING TOLERANCES

Tolerances in respect of quality and size shall be allowed in each package, or in each lot for produce presented in bulk, for produce not satisfying the requirements of the class indicated.

A. **Quality tolerances**

(i) *Class I*

10 % by number or weight of watermelons not satisfying the requirements of the class, but meeting those of Class II or, exceptionally, coming within the tolerances of that class.

(ii) *Class II*

10 % by number or weight of watermelons satisfying neither the requirements of the class nor the minimum requirements, with the exception of produce affected by rotting, or any other deterioration rendering it unfit for consumption.

B. **Size tolerances**

For all classes: 10 % by number or weight of watermelons not conforming to the size indiated, but no more than 1 kg asbove or below the size range specified.

The tolerance may in no case extend to fruit weighing less than 1 kg.

V. PROVISIONS CONCERNING PRESENTATION

A. **Uniformity**

The contents of each package, or lot for produce presented in bulk, must be uniform and contain only watermelons of the same origin, variety and quality.

The visible part of the contents of the package, or lot for produce presented in bulk, must be representative of the entire contents.

In addition, in Class I, the shape and colour of the rind of the watermelons must be uniform.

B. **Packaging**

The watermelons must be packed in such a way as to protect the produce properly.

The materials used inside the package, must be new, clean and of a quality such as to avoid causing any external or internal damage to the produce. The use of materials particularly paper or stamps, bearing trade specifications is allowed provided the printing or labelling has been done with non-toxic ink or glue.

Packages, or lots for produce presented in bulk, must be free from all foreign matter.

Watermelons transported in bulk must be separated from the floor and walls of the vehicles by a suitable protective material, which must be new and clean and not liable to transfer any abnormal taste or smell to the fruit.

C. **Presentation**

The watermelons may be presented:

— in packages,

— in bulk.

VI. PROVISIONS CONCERNING MARKING

Each package must bear the following particulars in letters grouped on the same side, legibly and indelibly marked, and visible from the outside.

For watermelons transported in bulk (direct loading into a transport vehicle) these particulars must appear on a document accompanying the goods, and attached in a visible position inside the transport vehicle.

For this type of presentation the indication of the size, the net weight or the number of units is not compulsory.

A. **Identification**

Packer and/or dispatcher: name and address or officially issued or accepted code mark. However, in the case where a code mark is used, the reference 'Packer' and/or 'Dispatcher' (or equivalent abbreviations) have to be indicated in close connection with the code mark.

B. **Nature of produce**

— 'Watermelons', if the contents are not visible from the outside.

C. **Origin of produce**

— Country of origin and, optionally, district where grown or national, regional or local place name.

D. **Commercial specifications**

— class,

— size (if sized) expressed in minimum and maximum weight,

— net weight or number of units.

E. **Official control mark (optional)**

COMMISSION REGULATION (EC) No 1094/97

of 16 June 1997

amending Regulation (EC) No 795/97 derogating from Regulation (EC) No 1223/94 laying down special detailed rules for the application of the system of advance-fixing certificates for certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and derogating from Regulation (EEC) No 3665/87 laying down common detailed rules for the application of the system of export refunds on agricultural products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals [1], as last amended by Commission Regulation (EC) No 923/96 [2], and in particular Article 13 (1), the third subparagraph of Article 13 (8) and Article 23 thereof,

Whereas Article 4 (1) of Commission Regulation (EC) No 1223/94 [3], as last amended by Regulation (EC) No 2340/96 [4], specifies the period of validity of advance-fixing certificates for refunds;

Whereas Commission Regulation (EC) No 795/97 [5], derogating from Regulation (EC) No 1223/94 laying down special detailed rules for the application of the system of advance-fixing certificates for certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and derogating from 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 [6], as last amended by Regulation (EC) No 815/97 [7], limited the validity of certificates fixing in advance the rate of refund for maize (corn) exported in the form of goods not covered by Annex II to the Treaty; whereas the market situation allows that the limitation of validity may be restricted to maize (corn) in the form of glucose, glucose syrup, maltodextrine or maltodextrine syrup used in the manufacture of the said goods; whereas, as a consequence, it is necessary to align the provisions of Regulation (EC) No 795/97 with those of Commission Regulation (EC) No 677/97 of 17 April 1997 limiting the term of validity of export licences for certain products processed from cereals [8]; whereas it is necessary to amend Regulation (EC) No 795/97;

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

Commission Regulation (EC) No 795/97 is amended as follows:

1. In Article 1 the words 'maize (corn)' are replaced by the words 'maize (corn) used in the form of glucose, glucose syrup, maltodextrine or maltodextrine syrup falling within CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79 or 2106 90 55'.

2. Article 2 is replaced by the following:

'*Article 2*

By derogation from Article 27 (5) of Regulation (EEC) No 3665/87 the acceptance of the payment declaration cannot take place for maize (corn) when used in the form of glucose, glucose syrup, maltodextrine or maltodextrine syrup falling within CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79 or 2106 90 55 for the manufacture of goods not covered by Annex II to the Treaty in cases where an export refund advance-fixing certificate is not presented, unless a declaration of exportation of the goods is accepted by 30 June 1997 at the latest.'

Article 2

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

[1] OJ No L 181, 1. 7. 1992, p. 2.
[2] OJ No L 126, 24. 5. 1996, p. 37.
[3] OJ No L 136, 31. 5. 1994, p. 33.
[4] OJ No L 318, 7. 12. 1996, p. 9.
[5] OJ No L 114, 1. 5. 1997, p. 33.
[6] OJ No L 351, 14. 12. 1987, p. 1.
[7] OJ No L 116, 6. 5. 1997, p. 22.
[8] OJ No L 101, 18. 4. 1997, p. 26.

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

Done at Brussels, 16 June 1997.

For the Commission
Martin BANGEMANN
Member of the Commission

COMMISSION REGULATION (EC) No 1095/97

of 16 June 1997

on the supply of vegetable oil as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security [1], and in particular Article 24 (1) (b) thereof,

Whereas the abovementioned Regulation lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated vegetable oil to certain beneficiaries;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid [2], as amended by Regulation (EEC) No 790/91 [3];

Whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs;

Whereas, in order to ensure that the supplies are carried out for a given lot, provision should be made for tenderers to be able to mobilize either rape-seed oil or sunflower oil; whereas the contract for the supply of such each lot is to be awarded to the tenderer submitting the lowest tender,

HAS ADOPTED THIS REGULATION:

Article 1

Vegetable oil shall be mobilized in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annex. Supplies shall be awarded by the tendering procedure.

The supply shall cover the mobilization of vegetable oil produced in the Community. For lot A mobilization may not involve a product manufactured and/or packaged under inward processing arrangements.

Tenders relating to lot A shall cover either rape-seed oil or sunflower oil. Tenders shall be rejected unless they specify the type of oil to which they relate.

The successful tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ No L 166, 5. 7. 1996, p. 1.
[2] OJ No L 204, 25. 7. 1987, p. 1.
[3] OJ No L 81, 28. 3. 1991, p. 108.

ANNEX

LOT A

1. **Operation No** (1): 287/96
2. **Programme:** 1996
3. **Recipient** (2): Euronaid, Postbus 12, NL-2501, CA Den Haag, Nederland (tel.: (31 70) 33 05 757; fax: 36 41 701; telex: 30960 EURON NL)
4. **Representative of the recipient:** to be designated by the recipient
5. **Place or country of destination:** Pakistan
6. **Product to be mobilized:** vegetable oil: refined rape-seed oil or refined sunflower oil
7. **Characteristics and quality of the goods** (3) (5) (7): see OJ No C 114, 29. 4. 1991, p. 1 (III.A (1) (a) or (b))
8. **Total quantity (tonnes):** 375
9. **Number of lots:** 1
10. **Packaging and marking** (6) (8): see OJ No C 267, 13. 9. 1996, p. 1 (10.4 A, B and C.2)
    see OJ No C 114, 29. 4. 1991, p. 1 (III.A (3))
    Language to be used for the marking: English
11. **Method of mobilization:** mobilization of refined vegetable oil produced in the Community.
    Mobilization may not involve a product manufactured and/or packaged under inward-processing arrangements.
12. **Stage of supply:** Free at port of shipment
13. **Port of shipment:** —
14. **Port of landing specified by the recipient:** —
15. **Port of landing:** —
16. **Address of the warehouse and, if appropriate, port of landing:** —
17. **Period for making the goods available at the port of shipment:** 28. 7 to 17. 8. 1997
18. **Deadline for the supply:** —
19. **Procedure for determining the costs of supply**: invitation to tender
20. **Date of expiry of the period allowed for submission of tenders:** 1. 7. 1997 (12 noon (Brussels time))
21. **In the case of a second invitation to tender:**
    (a) deadline for the submission of tenders: 15. 7. 1997 (12 noon (Brussels time))
    (b) period for making the goods available at the port of shipment: 11 to 31. 8. 1997
    (c) deadline for the supply: —
22. **Amount of tendering security:** ECU 15 per tonne
23. **Amount of delivery security:** 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** (1): Bureau de l'aide alimentaire, Attn. Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Brussels telex: 25670 AGREC B; fax: (32 2) 296 70 03 / 296 70 04 (exclusively)
25. **Refund payable on application by the successful tenderer** (4): —

Notes:

(1) The operation number should be mentioned in all correspondence.

(2) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required.

(3) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.

(4) Article 7 (3) (g) of Regulation (EEC) No 2200/87 shall not be applicable to tenders submitted.

(5) Tenders shall be rejected unless they specify the type of oil to which they relate.

(6) Notwithstanding OJ No C 114, point III.A (3) (c) is replaced by the following: 'the words "European Community".'

(7) The successful tenderer shall supply to the beneficiary or its representative, on delivery, a sanitary certificate.

(8) Shipment to take place in 20-foot containers, FCL/FCL (each containing 15 tonnes net).

The supplier will be responsible for the cost of making the containers available in the stack position at the container terminal at the port of shipment. The beneficiary will be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal.

The provisions of Article 13 (2), second subparagraph, of Regulation (EEC) No 2200/87 shall not apply.

The supplier must submit to the recipient's agent a complete packing list of each container, specifying the number of metal canisters belonging to each operation number as specified in the invitation to tender.

The supplier must seal each container with a numbered locktainer (Sysko locktainer 180 seal), the number of which is to be provided to the recipient's forwarder.

COMMISSION REGULATION (EC) No 1096/97
of 16 June 1997
on the supply of cereals as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security [1], and in particular Article 24 (1) (b) thereof,

Whereas the abovementioned Regulation lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated cereals to certain beneficiaries;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid [2], as amended by Regulation (EEC) No 790/91 [3]; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Cereals shall be mobilized in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annex. Supplies shall be awarded by the tendering procedure.

The successful tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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 June 1997.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ No L 166, 5. 7. 1996, p. 1.
[2] OJ No L 204, 25. 7. 1987, p. 1.
[3] OJ No L 81, 28. 3. 1991, p. 108.

ANNEX

LOT A

1. **Operation No** (1): 283/96
2. **Programme:** 1996
3. **Recipient** (2): WFP (World Food Programme), via Cristoforo Colombo 426, I-00145 Roma (tel: (39 6) 57 971; telex: 626675 WFP I)
4. **Representative of the recipient:** to be designated by the recipient
5. **Place or country of destination:** Pakistan
6. **Product to be mobilized:** common wheat
7. **Characteristics and quality of the goods** (3) (5): see OJ No C 114, 29. 4. 1991, p. 1 (II.A (1) (a))
8. **Total quantity (tonnes):** 12 895
9. **Number of lots:** 1
10. **Packaging and marking:** in bulk
11. **Method of mobilization:** the Community market
12. **Stage of supply:** free at port of landing — landed
13. **Port of shipment:** —
14. **Port of landing specified by the recipient:** —
15. **Port of landing:** Port Qasim
16. **Address of the warehouse and, if appropriate, port of landing:** —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage:** 21. 7 to 34. 8. 1997
18. **Deadline for the supply:** 24. 8. 1997
19. **Procedure for determining the costs of supply:** invitation to tender
20. **Date of expiry of the period allowed for submission of tenders:** 1. 7. 1997 (12 noon (Brussels time))
21. **In the case of a second invitation to tender:**
    (a) deadline for the submission of tenders: 15. 7. 1997 (12 noon (Brussels time))
    (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 4 to 17. 8. 1997
    (c) deadline for the supply: 7. 9. 1997
22. **Amount of tendering security:** ECU 5 per tonne
23. **Amount of delivery security:** 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** (1): Bureau de l'aide alimentaire, Attn. Mr T. Vestergaard, bâtiment Loi 130, bureau 7/46, rue de la Loi/Wetstraat 200, B-1049 Brussels tlx: 25670 AGREC B; fax: (32 2) 296 70 03 / 296 70 04 (exclusively)
25. **Refund payable on application by the successful tenderer** (4): refund applicable on 13. 6. 1997, fixed by Commission Regulation (EC) No 967/97 (OJ No L 141, 31. 5. 1997, p. 6)

Notes:

(1) The operation number should be mentioned in all correspondence.

(2) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required.

(3) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.

(4) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56), as last amended by Regulation (EEC) No 2226/89 (OJ No L 214, 25. 7. 1989, p. 10), is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that referred to in point 25 of this Annex.

The amount of the refund, shall be converted into national currency by applying the agricultural conversion rate applicable on the day of completion of the customs export formalities. The provisions of Articles 13 to 17 of Commission Regulation (EEC) No 1068/93 (OJ No L 108, 1. 5. 1993, p. 106), as last amended by Regulation (EC) No 1482/96 (OJ No L 188, 27. 7. 1996, p. 22), shall not apply to this amount.

(5) The successful tenderer shall supply to the beneficiary or its representative, on delivery, the following document:

— phytosanitary certificate (The phytosanitary certificate shall indicate that the product is free from *anguina trilici, claviceps purpurea, ustilago nuda, coryncbacterium* app pseudomonas atrofaciens and *xanthomonas translucena* and from soil and weeds. The certificate shall also indicate that it is free from pests and diseases).

COMMISSION REGULATION (EC) No 1097/97

of 16 June 1997

altering the export refunds on cereals and on wheat or rye flour, groats and meal

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 market in cereals (1), as last amended by Commission Regulation (EC) No 923/96 (2), and in particular the fourth subparagraph of Article 13 (2) thereof,

Whereas the export refunds on cereals and on wheat or rye flour, groats and meal were fixed by Commission Regulation (EC) No 1078/97 (3);

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 1078/97 to the information known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 (4), as last amended by Regulation (EC) No 150/95 (5), are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 (6), as last amended by Regulation (EC) No 1482/96 (7),

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 1766/92, exported in the natural state, as fixed in the Annex to Regulation (EC) No 1078/97 are hereby altered as shown in the Annex to this Regulation in respect of the products set out therein.

Article 2

This Regulation shall enter into force on 17 June 1997.

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

Done at Brussels, 16 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

(1) OJ No L 181, 1. 7. 1992, p. 21.
(2) OJ No L 126, 24. 5. 1996, p. 37.
(3) OJ No L 156, 13. 6. 1997, p. 51.
(4) OJ No L 387, 31. 12. 1992, p. 1.
(5) OJ No L 22, 31. 1. 1995, p. 1.
(6) OJ No L 108, 1. 5. 1993, p. 106.
(7) OJ No L 188, 27. 7. 1996, p. 22.

ANNEX

to the Commission Regulation of 16 June 1997 altering the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU / tonne)

Product code	Destination (1)	Amount of refund
0709 90 60	—	—
0712 90 19	—	—
1001 10 00 9200	—	—
1001 10 00 9400	—	—
1001 90 91 9000	—	—
1001 90 99 9000	—	—
1002 00 00 9000	—	—
1003 00 10 9000	—	—
1003 00 90 9000	—	—
1004 00 00 9200	—	—
1004 00 00 9400	—	—
1005 10 90 9000	—	—
1005 90 00 9000	—	—
1007 00 90 9000	—	—
1008 20 00 9000	—	—
1101 00 11 9000	—	—
1101 00 15 9100	—	—
1101 00 15 9130	—	—
1101 00 15 9150	—	—
1101 00 15 9170	—	—
1101 00 15 9180	—	—
1101 00 15 9190	—	—
1101 00 90 9000	—	—
1102 10 00 9500	01	30,00
1102 10 00 9700	—	—
1102 10 00 9900	—	—
1103 11 10 9200	—	— (2)
1103 11 10 9400	—	— (2)
1103 11 10 9900	—	—
1103 11 90 9200	—	— (2)
1103 11 90 9800	—	—

(1) The destinations are identified as follows:
01 All third countries.

(2) No refund is granted when this product contains compressed meal.

NB: The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ No L 214, 30. 7. 1992, p. 20).

COMMISSION REGULATION (EC) No 1098/97

of 16 June 1997

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 2375/96 [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 17 June 1997.

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

Done at Brussels, 16 June 1997.

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 325, 14. 12. 1996, p. 5.
(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 June 1997 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
0709 90 77	052	83,3
	999	83,3
0805 30 30	388	77,0
	528	63,0
	999	70,0
0808 10 61, 0808 10 63, 0808 10 69	388	88,6
	400	84,2
	404	104,6
	508	90,3
	512	68,5
	524	77,7
	528	71,6
	804	94,5
	999	85,0
0809 20 49	052	208,0
	064	213,6
	066	104,0
	400	221,4
	999	186,8

(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 DIRECTIVE 97/26/EC

of 6 June 1997

amending Council Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 93/75/EEC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods [1], as last amended by Commission Directive 96/39/EC [2], and in particular Article 11 thereof,

Whereas, for the purposes of Directive 93/75/EEC, Article 2 (f) specifies that the International Maritime Dangerous Goods Code (IMDG code) applicable for the purposes of the Directive is as in force on 1 January 1996;

Whereas the IMDG code has been further amended by the Maritime Safety Committee at its 66th session; whereas the amendment No 28-1996 to the IMDG code entered into force on the 1 January 1997;

Whereas it is appropriate to apply the said amendment for the purposes of the Directive;

Whereas the provisions of this Directive are in line with the opinion of the Committee referred to in Article 12 of Directive 93/75/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 93/75/EEC is amended as follows:

The expression 'in force on 1 January 1996' in Article 2 (f) shall be replaced by 'in force on 1 January 1997'.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 30 September 1997. They shall immediately inform the Commission thereof.

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

2. Member States shall communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 6 June 1997.

For the Commission

Neil KINNOCK

Member of the Commission

[1] OJ No L 247, 5. 10. 1993, p. 19.
[2] OJ No L 196, 7. 8. 1996, p. 7.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 5 June 1997

appointing one member and three alternate members of the Committee of the Regions

(97/373/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 198a thereof,

Having regard to the Council Decisions of 26 January 1994 [1] and 23 January 1995 [2] appointing members and alternate members of the Committee of the Regions,

Whereas one seat as a member and three seats as alternate members of the Committee have become vacant following the resignations of Mr Martin Purtscher, member, and Mr Herbert Sausgruber, Mr Hannes Swoboda and Ms Mari-Ann Esch, alternate members, notified to the Council on 21 May 1997 and 29 April 1997 respectively;

Having regard to the proposal from the Austrian and Finnish Governments,

HAS DECIDED AS FOLLOWS:

Sole Article

1. Mr Herbert Sausgruber is hereby appointed a member of the Committee of the Regions in place of Mr Martin Purtscher for the remainder of the latter's term of office, which runs until 25 January 1998.

2. Mr Martin Purtscher is hereby appointed an alternate member of the Committee of the Regions in place of Mr Herbert Sausgruber for the remainder of the latter's term of office, which runs until 25 January 1998.

3. Ms Brigitte Ederer is hereby appointed an alternate member of the Committee of the Regions in place of Mr Hannes Swoboda for the remainder of the latter's term of office, which runs until 25 January 1998.

4. Mr Gustav Skuthälla is hereby appointed an alternate member of the Committee of the Regions in place of Ms Mari-Ann Esch for the remainder of the latter's term of office, which runs until 25 January 1998.

Done at Luxembourg, 5 June 1997.

For the Council

The President

E. BORST-EILERS

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[1] OJ No L 31, 4. 2. 1994, p. 29.
[2] OJ No L 25, 2. 2. 1995, p. 20.

COUNCIL DECISION

of 5 June 1997

repealing Decision 77/186/EEC on the exporting of crude oil and petroleum products from one Member State to another in the event of supply difficulties

(97/374/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and, in particular, Article 103a thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Having regard to the opinion of the Economic and Social Committee [3],

Whereas Decision 77/186/EEC [4] was adopted to make intra-Community trade in oil subject to a system of licences valid for short periods and to suspend export licences on an extremely short-term basis;

Whereas the objective of these measures was to restrict or limit intra-Communty trade in oil in the event of excessive price disparities between Member States;

Whereas such pricing policies, which could aggravate the shortage in Member States applying a price ceiling policy, are no longer practised today;

Whereas the abolition of customs formalities and controls within the Community has made it extremely difficult, if not impossible, to implement Decision 77/186/EEC;

Whereas the measures provided for by the said Decision constitute quantitative restrictions on exports contrary to the provisions of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Decision 77/186/EEC is hereby repealed.

Article 2

This Decision is addressed to the Member States.

Done at Luxembourg, 5 June 1997.

For the Council

The President

E. BORST-EILERS

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[1] OJ No C 272, 18. 9. 1996, p. 10.
[2] OJ No C 132, 28. 4. 1997.
[3] OJ No C 66, 3. 3. 1997, p. 38.
[4] OJ No L 61, 5. 3. 1977, p. 23. Decision as amended by Decision 79/879/EEC (OJ No L 270, 27. 10. 1979, p. 58).

COUNCIL DECISION

of 9 June 1997

authorizing the United Kingdom to apply an optional measure derogating from Article 17 of the sixth Directive (77/388/EEC) on the harmonization of the Laws of the Member States relating to turnover taxes

(97/375/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Sixth Council Directive (77/388/EEC) of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common System of value added tax: uniform basis of assessment [1], and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, under the terms of Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measure for derogation from the provisions of that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance;

Whereas the United Kingdom was authorized, by Decision 93/111/EEC [2], in accordance with the procedure laid down in Article 27 (1) to (4) of Directive 77/388/EEC, to apply a measure derogating from Article 17 (1) of the said Directive until 31 December 1996;

Whereas the United Kingdom, by means of a letter registered by the Commission on 19 November 1996, requested authorization to extend the said derogation;

Whereas the other Member States were informed on 18 December 1996 of the United Kingdom's request;

Whereas this special measure derogating from Article 17 (1) of Directive 77/388/EEC forms part of an optional system of taxation for firms with an annual turnover not higher than £ 400 000 based on the third subparagraph of Article 10 (2) of the said Directive, which permits payment of tax to be deferred until receipt of the price;

Whereas the United Kingdom seeks authority to increase the turnover ceiling from £ 350 000 to £ 400 000 to take account of inflation;

Whereas a derogation can be accepted in view of the number of firms that already have opted for this simplified scheme and the limited duration of this extension;

Whereas the derogation in question does not have a negative effect on the own resources of the European Communities accruing from VAT;

Whereas the Commission adopted on 10 July 1996 a work programme based on a step-by-step approach for progressing towards a new common system of VAT;

Whereas the last package of proposals is to be put forward by mid-1999 and, in order to permit an evaluation of the coherence of the derogation with the global approach of the new common VAT system, the authorization is granted until 31 December 1999,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from the provisions of Article 17 (1) of Directive 77/388/EEC, the United Kingdom is hereby authorized, until 31 December 1999, to provide within an optional scheme that enterprises with an annual turnover not higher than £ 400 000 must postpone the right of deduction of tax until it has been paid to the supplier.

Article 2

This Decision is addressed to the United Kingdom.

Done at Luxembourg, 9 June 1997.

For the Council

The President

G. ZALM

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[1] OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 96/95/EC (OJ No L 338, 28. 12. 1996, p. 89).

[2] OJ No L 43, 20. 2. 1993, p. 46.

COMMISSION

COMMISSION DECISION

of 18 December 1996

authorizing the grant by the United Kingdom of aid to the coal industry

(Only the English text is authentic)

(Text with EEA relevance)

(97/376/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 3632/93/ECSC of 28 December 1993 establishing Community rules for State aid to the coal industry [1],

Having regard to Decision 96/514/ECSC of 20 March 1996 authorizing the grant by the United Kingdom of aid to the coal industry [2],

Whereas:

I

In a letter dated 30 September 1996 the United Kingdom notified the Commission, pursuant to Article 9 (1) of Decision No 3632/93/ECSC, of the aid which it intends to grant to the coal industry in the 1997/98 financial year as well as of further financial aid which it intends to grant to the coal industry in the 1996/97 financial year in addition to the aid authorized by Decision 96/514/ECSC.

In accordance with Decision No 3632/93/ECSC, the Commission must give a ruling on the following financial measures notified for the 1997/98 financial year:

— a payment of £ 23 million for the exceptional social-welfare benefits made necessary by the restructuring process,

— a payment of £ 55 million for contributions to pension schemes,

— a payment of £ 93 million for concessionary supplies of coal, smokeless fuel or, in some cases, payment in kind for former workers of the British Coal Corporation and their dependants,

— a payment of up to £ 67 million for compensation for industrial injury and damage to health,

— a payment of £ 87 million to cover the environmental damage caused by mining activities before privatization,

— a payment of £ 22 million to cover the costs arising from residual activities prior to dissolution of the British Coal Corporation following privatization.

In accordance with the same decision, the Commission must also give a ruling on the additional financial measure notified for the 1996/97 financial year:

— a payment of a further £ 24 million for compensation for industrial injury and damage to health.

The financial measures which the United Kingdom intends to take in respect of the coal industry fall within the scope of Article 1 (1) of Decision No 3632/93/ECSC. The Commission must therefore give a ruling pursuant to Article 9 (4) of the Decision on whether they comply with the objectives and criteria set out in the Decision and are compatible with the proper functioning of the common market.

[1] OJ No L 329, 30. 12. 1993, p. 12.
[2] OJ No L 216, 27. 8. 1996, p. 6.

II

By Decision 94/574/ECSC (1), the Commission approved the modernization, rationalization and restructuring plan notified by the United Kingdom Government by letter of 30 March 1994 as complying with the general and specific objectives set out in Decision No 3632/93/ECSC.

The priority objective set by the plan is to make the United Kingdom coal industry fully competitive with coal prices on international markets and to privatize the British Coal Corporation. To achieve that objective, the industry has had to step up the restructuring process, which has led to the closure of a large number of production units.

On 5 July 1994 the Coal Industry Act 1994 received Royal Assent. The Act defined a new legal framework for the British coal industry, enabling the coal mining operations of the public undertaking known as the British Coal Corporation to be fully privatized, and providing for the establishment of a public-sector body, the Coal Authority, to be responsible for granting rights over, and licences to work, unworked coal and coal mines in the the United Kingdom hitherto owned by the British Coal Corporation.

As a result of the privatization process, the United Kingdom coal industry now consists exclusively of private undertakings which received no aid under Articles 3, 4, 6 and 7 of Decision No 3632/93/ECSC in respect of any period after 31 March 1995.

The aid to cover inherited liabilities (Article 5 of the Decision), covered by this notification, is paid only to former workers of the British Coal Corporation directly or to the coal pension funds or to the public-sector bodies, particularly the Coal Authority and the British Coal Corporation, and exclusively in respect of inherited liabilities arising from the period prior to privatization.

III

The aid to cover exceptional social-welfare benefits arising from the restructuring and closure of British Coal Corporation mines meets the Corportion's and the Government's obligation to pay compensation to workers who have been made redundant or been transferred to other mines as a result of the restructuring, rationalization and modernization of the United Kingdom coal industry. To cover these costs, the United Kingdom Government intends to pay £ 23 million in the 1997/98 financial year. These financial measures meet obligations made necessary by the restructuring, rationalization and modernization of the United Kingdom coal industry and cannot therefore be considered related to current production (inherited liabilities).

In accordance with Article 5 of Decision No 3632/93/ECSC, this aid, which is explicitly mentioned in the Annex to the Decision, namely the cost of paying social-welfare benefits resulting from the pensioning-off of workers before they reach statutory retirement age, other exceptional expenditure on workers who lose their jobs as a result of restructuring and rationalization, and the payment of pensions and allowances outside the statutory system to workers who lose their jobs as a result of restructuring and rationalization and to workers entitled to such payments before the restructuring, can be considered compatible with the common market provided that the amount paid does not exceed the costs.

IV

The aid for contributions to pension schemes and other pension arrangements for British Coal Corporation workers meets the Corporation's obligations with regard to the pensions of some 600 000 members for the part of their employment spent with the Corporation. To cover these contributions, The United Kingdom Government intends to pay £ 55 million in the 1997/98 financial year. These financial measures meet obligations made necessary by the restructuring, rationalization and modernization of the United Kingdom coal industry and cannot therefore be considered to be related to current production (inherited liabilities). Reponsibility for pensions of British Coal Corporation workers who continued to work for the companies established after privatization is being met by separate industry-wide pension schemes funded entirely by the new companies.

In accordance with Article 5 of Decision No 3632/93/ECSC, this aid, which is explicitly mentioned in the Annex to the Decision, namely the cost of paying social-welfare benefits resulting from the pensioning-off of workers before they reach statutory retirement age, the payment of pensions and allowances outside the statutory system to workers who lose their jobs as a result of restructuring and rationalization and to workers entitled to such payments before the restruturing, can be considered compatible with the common market provided that the amount paid does not exceed the costs.

(1) OJ No L 220, 25. 8. 1994, p. 12.

V

The aid for concessionary entitlement to coal or smokeless fuel or, in certain cases, cash-in-lieu to former workers or their dependants meets the British Coal Corporation's obligations under the agreements signed with the mining trade unions. Since privatization, the companies established after privatization bear the obligation to supply fuel to British Coal Corporation workers transferred to them. To cover the obligations to supply fuel to former British Coal Corporation workers who have retired or been made redundant, or to their dependants, the United Kingdom Government intends to pay £ 93 million in the 1997/98 financial year.

These financial measures meet the obligations to supply workers who retired or were made redundant in the process of restructuring, rationalization and modernization of the United Kingdom coal industry or their dependants and cannot therefore be considered as related to current production (inherited liabilities).

In accordance with Article 5 of Decision No 3632/93/ECSC, this aid, which is explicitly mentioned in the Annex to the Decision, namely the supply of free coal to workers who lose their jobs as a result of restructuring and rationalization, may be considered compatible with the common market provided that the amount paid does not exceed the costs.

VI

The aid to cover compensation for industrial injury and damage to health suffered by former workers of the British Coal Corporation meets the Corporation's obligations to pay compensation for industrial injury and damage to health sufferd in the course of their employment in the Corporation before privatization. For accidents after that date, the companies established after privatization must assume all the liabilities. To compensate former workers of the British Coal Corporation for industrial injury and damage to health arising from employment before privatization, the United Kingdom Government intends to pay up to £ 67 million in the 1997/98 financial year either indirectly through the British Coal Corporation or directly to the former workers themselves.

Further to recent judicial decisions on the liability for certain health claims, original estimates with respect to the amount of compensation claims had to be revised. The amount of expected expenditure in the 1996/97 financial year is therefore higher than the sums authorized by Decision 96/514/ECSC. The United Kingdom Government therefore seeks authorization for additional expenditure of £ 24 million to be incurred in the 1996/97 financial year in settlement of health claims by former workers of the British Coal Corporation in respect of pre-privatization activity.

The beneficiaries of these financial measures are for the most part workers who have been made redundant or have retired, and the compensation relates entirely to health damage arising out of the pre-privatization employment. This aid is therefore intended to cover the costs arising from the modernization, rationalization or restructuring of the coal industry and is not related to current production.

In accordance with Article 5 of Decision No 3632/93/ECSC, this aid, which is explicitly mentioned in the Annex to the Decision, namely residual costs to cover former miners' health insurance, may be considered compatible with the common market provided that the amount paid does not exceed the costs.

VII

The aid which the United Kingdom intends to grant to The Coal Authority and/or, on a transitional basis, to the residual part of the British Coal Corporation covers liabilities for the environmental damage caused by underground production activites before privatization of the British Coal Corporation. Part of these liabilities are for damage caused on the surface by subsidence. The other liabilities include the rehabilitation of abandoned mine sites and tips, methane venting and water pumping from old workings. The companies succeeding the Bristish Coal Corporation are responsible for the obligations connected with the working of the resources or mines transferred to them as this is one of their areas of responsibility defined in their operating licences.

To cover the costs arising from mining activities before privatization, the United Kingdom Governement intends to pay £ 87 million in the 1997/98 financial year.

This aid is therefore designed to cover the costs arising from the modernization, rationalization or restructuring of the coal industry which are not related to current production (inherited liabilities).

In accordance with Article 5 of Decision No 3632/93/ECSC, this aid, which is explicitly mentioned in the Annex to the Decision, namely additional underground safety work resulting from restructuring, mining damage provided that it has been caused by zones of working previously in service and residual costs resulting from contributions to bodies responsible for water supplies and for the removal of waste water, may be considered compatible with the common market provided the amount paid does not exceed the costs.

VIII

The aid to cover the costs arising from the British Coal Corporation's residual activities between privatization and the dissolution of the Corporation meets the Corporation's obligation to cover certain residual activities not related to current production, such as the management and disposal of the Corporation's residual property assets and liabilities in the period up to December 1997, the privatization of the remaining subsidiaries, particularly the taxes on the revenue from sale of these subsidiaries, the obligations to complete certain ongoing research programmes, the Corporation's responsibilities with regard to certain legal action taken against it (other than for compensation for industrial injury or damage to health) and, finally, the cost to the Coal Authority of activities relevant to maintaining access to coal reserves after mining has stopped.

To cover those residual activities, the United Kingdom Government intends to pay £ 22 million in the 1997/98 financial year.

These financial measures meet obligations made necessary by the restructuring, rationalization and modernization of the United Kingdom coal industry and cannot therefore be considered to be related to current production (inherited liabilities).

In accordance with Article 5 of Decision No 3632/93/ECSC, this aid, which is explicitly mentioned in the Annex to the Decision, namely residual costs resulting from administrative, legal or tax provisions and costs in connection with maintaining access to coal reserves after mining has stopped, may be considered compatible with the common market provided that the amount paid does not exceed the costs.

IX

With respect to the new legal and regulatory framework established for the Untied Kingdom coal industry by the Coal Industry Act 1994, the United Kingdom Government will ensure that the aid granted pursuant to this Decision gives rise to no discrimination between producers, purchasers or users on the Community coal market.

In the light of the foregoing and based on the information supplied by the United Kingdom, the aid measures referred to in this Decision are compatible with the provisions of Articles 2 to 9 of Decision No 3632/93/ECSC and with the proper functioning of the common market,

HAS ADOPTED THIS DECISION:

Article 1

The United Kingdom Government is hereby authorized to take the following financial measures totalling £ 347 million in the 1997/98 financial year:

— a payment of £ 23 million for the British Coal Corporation or the public administration succeeding it to cover exceptional social-welfare benefits for workers who lose their jobs as a result of the restructuring, rationalization and modernization of the United Kingdom coal industry,

— a payment of £ 55 million for contributions to pension schemes for former workers of the British Coal Corporation and their dependants,

— a payment of £ 93 million for concessionary fuel entitlement to coal and smokeless fuel, or, in certain cases, cash-in-lieu for former British Coal Corporation workers and their dependants,

— a payment of up £ 67 million for compensation for industrial injury and damage to health for former workers of the British Coal Corporation and their dependants,

— a payment of £ 87 million to cover the environmental damage caused by mining activities before privatization,

— a payment of £ 22 million to cover the costs arising from the residual activities of the British Coal Corporation.

Article 2

The United Kingdom is authorized to grant for the 1996/97 financial year further aid not exceeding £ 24 million, in addition to the aid authorized by Decision 96/514/ECSC, to cover compensation for former workers of the British Coal Corporation for industrial injury and damage.

Article 3

The United Kingdom shall give notification by 30 September 1998 of the amount of aid actually paid in the 1997/98 financial year to the recipients referred to in Article 1 of this Decision and by 30 September 1997 of the amount of aid actually paid in the 1996/97 financial year to the recipients referred to in Article 2 of this Decision and shall report on any changes made compared with the amounts originally notified.

Article 4

The United Kingdom shall ensure that it is reimbursed for any overestimated expenditure or cancelled expenditure on any of the items covered by this Decision.

Article 5

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 18 December 1996.

For the Commission

Christos PAPOUTSIS

Member of the Commission

COMMISSION DECISION

of 4 June 1997

amending, as regards Germany, the United Kingdom, Ireland, Greece and Sweden, Decision 96/295/EC identifying and listing the units in the Animo computer network

(Text with EEA relevance)

(97/377/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning the veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market [1], as last amended by Directive 92/118/EEC [2], and in particular Article 20 (3) thereof,

Whereas, at the request of Germany, the United Kingdom, Ireland, Greece and Sweden, the list of Animo units laid down by Decision 96/295/EC identifying and listing the units in the Animo computer network and repealing Decision 92/175/EEC [3] should be amended, in particular as regards local units and border inspection posts;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 96/295/EC is amended as follows:

1. under the heading '**Deutschland,** LOCAL UNITS', under the identification number 0121614, 'Westlausitz-Dresdner Land' is replaced by 'Kamenz';
2. under the heading '**United Kingdom,** LOCAL UNITS', '0709903 Dumfries' is replaced by '0709003 Perth';
3. under the heading '**Ireland,** LOCAL UNITS', '0819099 Wicklow' is replaced by '0810900 Wicklow-Rosslare';
4. under the heading '**Ellada**':
   - under 'LOCAL UNITS', under the identification number 1000200, 'Attiki' is replaced by 'Athina-Attiki';
   - under 'BORDER INSPECTION POSTS', '1005899 Patra' is deleted;
5. under the heading '**Sverige,** BORDER INSPECTION POSTS':
   - '1612299 Sturup (airport)' and '1612499 Malmö (port)' are deleted.
   - the following are added: '1605199 Noorköping (airport)', '1613199 Varberg (port)', '1614499 Lysekil (port)', '1614599 Wallham (port)' and '1617299 Eda (road)'.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 4 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ No L 224, 18. 8. 1990, p. 29.
[2] OJ No L 62, 15. 3. 1993, p. 49.
[3] OJ No L 113, 7. 5. 1996, p. 1.