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## Legislation

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## I

*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EC) No 2334/97**

**of 24 November 1997**

**imposing a definitive anti-dumping duty on certain imports of flat pallets of wood originating in the Republic of Poland and collecting definitively the provisional duty imposed**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community<sup>(1)</sup>, and in particular Articles 9 (4) and 10 (2) thereof,

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

Whereas:

**A. PROVISIONAL MEASURES**

- (1) The Commission, by Regulation (EC) No 1023/97<sup>(2)</sup> (hereinafter referred to as the Provisional Regulation) imposed provisional duties on certain imports into the Community of flat pallets of wood falling within CN code ex 4415 20 20 and originating in Poland. In addition, undertakings offered by certain exporters in connection with those imports were accepted by the Provisional Regulation. The product scope of these undertakings was limited to a certain type of flat pallets of wood, i.e. EUR-pallets.
- (2) By Regulation (EC) No 1632/97<sup>(3)</sup>, the Commission amended the Provisional Regulation by adding a provision whereby genuine new Polish exporters can be allocated the weighted average duty applicable to cooperating companies not included in the sample of exporters investigated and can have

undertakings accepted with regard to exports of EUR-pallets.

- (3) By Regulation (EC) No 1633/97<sup>(4)</sup>, pursuant to the abovementioned new provision, the Commission further amended the Provisional Regulation by including a number of genuine new exporters in the list of companies receiving the weighted average duty and by accepting undertakings from some of these new exporters.

**B. SUBSEQUENT PROCEDURE**

- (4) Following the imposition of provisional anti-dumping duties, several interested parties submitted comments in writing. The parties who so requested were granted an opportunity to be heard by the Commission. The Commission continued to seek and verify all the information it deemed necessary for the purpose of its definitive findings.
- (5) Parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional subsequent to this disclosure.
- (6) The comments submitted by the interested parties were duly examined and, where deemed appropriate, taken into account in making the definitive findings.

**C. PRODUCT CONCERNED AND LIKE PRODUCT**

- (7) According to recitals (8) and (9) of the Provisional Regulation the product under consideration is flat wooden pallets, falling under CN code ex 4415 20 20 and originating in Poland.

<sup>(1)</sup> OJ L 56, 6. 3. 1996, p. 1. Regulation as amended by Regulation (EC) No 2331/96 (OJ L 317, 6. 12. 1996, p. 1).

<sup>(2)</sup> OJ L 150, 7. 6. 1997, p. 4.

<sup>(3)</sup> OJ L 225, 15. 8. 1997, p. 11.

<sup>(4)</sup> OJ L 225, 15. 8. 1997, p. 13.

It appeared that the provisional anti-dumping duty on wooden pallets was not applied consistently by the customs authorities. For example, while some customs offices applied the provisional anti-dumping duty on used and repaired pallets, others did not. It was also reported that the anti-dumping duty had in some cases been applied to pallets when they were loaded with other goods for the purpose of importing these goods into the Community.

- (8) Despite the fact that used and repaired pallets have a similar use and physical characteristics closely resembling the product concerned, i.e. newly produced pallets, the investigation has shown that newly produced pallets on the one hand and used and repaired pallets on the other hand differ substantially in terms of the perception by potential pallet users and channels through which they are usually sold.
- (9) On the basis of the foregoing, it is concluded that used and repaired pallets cannot be considered to be like products in accordance with Article 1 (4) of the Basic Regulation and therefore these pallets are not covered by the scope of the current investigation. It follows that anti-dumping measures should not apply to used and repaired pallets but only to imports of newly produced flat wooden pallets originating in Poland.

In addition, as regards flat pallets of wood originating in Poland which are loaded with other goods for the purpose of importing these goods into the Community, the Commission is of the opinion that these should be treated as used pallets provided that the pallets represent only a minor proportion of the total value of the loaded goods imported.

## D. DUMPING

### 1. Normal value

- (10) As set out in recital 16 of the Provisional Regulation, in constructing normal values for pallets other than the EUR-pallet, the weighted average profit margin relating to domestic sales found for two investigated companies which had representative and profitable domestic sales was used for other Polish exporters not having made representative and/or profitable domestic sales, in accordance with Article 2 (6) (a) of the Basic Regulation.
- (11) Two of these other Polish exporters claimed that the domestic sales used as a basis for determining this weighted average profit margin might not be representative due to circumstances which are specific to the two companies having made these sales and which might thus have generated exceptionally high profit levels. However, the investigation has shown that the sales used to calculate the weighted average profit margin have been made in sufficient quantities and in the ordinary course of trade, and that the resulting profit margin can be considered to reasonably reflect the actual amounts of profit realized on the Polish market.
- (12) With regard to the remaining aspects of normal value, in the absence of any new argument raised by the interested parties, the methodology and the findings as described in recitals 16 to 18 of the Provisional Regulation are confirmed.

### 2. Export price

- (13) Following disclosure of the provisional findings, two Polish exporters, for whom export prices have been constructed in accordance with Article 2 (9) of the Basic Regulation, and their related importer in the Community have claimed that the adjustments made for selling, general and administrative (SG&A) expenses and profit were excessive in respect of the amounts actually attributed to the product under investigation.
- (14) As regards profits, the Commission has re-examined the issue and has sought additional information and evidence from independent importers of wooden pallets on profits made in the investigation period, i.e. the calendar year 1994 (hereinafter referred to as the 'IP'). As a result of this re-examination the findings made for the purpose of the provisional measures are confirmed and, therefore, retained as definitive findings.
- (15) In the Provisional Regulation, the amount of SG&A expenses was determined by allocating these expenses to the product concerned on the basis of turnover. This allocation key was used in the absence of a specific, historically utilized allocation or any other more appropriate method. The company also agreed to this approach during the on-the-spot verification. Afterwards the importer proposed a different allocation of SG&A expenses based on an estimated apportionment of all cost items to the product concerned and other activities of the company. However, given that it has not been shown that the new allocation method has been historically used, the claim had to be rejected and preference given to the allocation of costs on the basis of turnover, in accordance with Article 2 (5) of the Basic Regulation.
- (16) With regard to the remaining aspects concerning the determination of the export price, in the absence of any new argument raised by the interested parties, the methodology and the findings as described in recitals 19 to 21 of the Provisional Regulation are confirmed.

### 3. Comparison

- (17) In the absence of any new argument raised by the interested parties, the methodology and the findings made with regard to the comparison between the export price and the normal value as described in recitals 22 to 25 of the Provisional Regulation are confirmed.

### 4. Dumping margins

- (18) As set out in recital 27 of the Provisional Regulation, a single dumping margin was allocated to the two Polish exporters which are both related to the same importer in the Community, in order to preclude the possibility that future exports to the Community might be channelled through the company having the lower margin. The single dumping margin applicable to both Polish exporters concerned was calculated on the basis of the weighted average of the individual dumping margins found for each company.
- (19) As a result of the revision of the methodology provisionally used to weigh the two margins, the definitive single dumping margin to be applied to both companies amounts to 5,9 % instead of 6,3 %.
- (20) As regards the dumping margins found for the Polish exporters in the sample, namely the margin applicable to cooperating exporters not investigated and the margin applicable to non-cooperating exporters not investigated, in the absence of any new argument, the methodology and findings as set out in recitals 26 and 28 to 31 of the Provisional Regulation are confirmed.
- (21) In view of the above, the definitive dumping margins are as follows:

#### 1. Investigated companies included in the sample:

— P.P.H.i.U. Eldagran, Slawoborze	4,9 %
— Intur-Kfs, Spolka z o.o., Inowroclaw	9,7 %
— Z.P.H. Palettenwerk Kazimierz Kozik, Bystra Podhalanska	4,0 %
— RSP Rzecko, Choszczno	0,0 %
— Sabelmar Import-Export, Konczyce Male	9,8 %
— Paletex, Roman Panasiuk, Warszawa	9,8 %
— Tor-Pal, Spolka z o.o., Kwidzyn	0,0 %
— Z.P.P.D., Zielona Gora	10,6 %

- #### 2. Individually treated companies (PPHU Alpa, Spolka z o.o., Dobrzyca and PPHU Palimex, Spolka z o.o., Wloszakowice)
- 5,9 %.

3. Cooperating companies not investigated 6,3 %.
4. Non-cooperating companies 10,6 %.

### E. DETERMINATION OF THE COMMUNITY INDUSTRY

- (22) As no new arguments were received in connection with the definition of the Community industry as set out in recital 32 of the Provisional Regulation, the qualification of the complaining industry as the Community industry for the purposes of the current investigation is confirmed.

### F. INJURY

- (23) A main submission with regard to injury was received from two related Polish exporters. They claimed that the Commission only analysed the changes in consumption between the beginning and the end of the period covered by the examination of injury, thus not taking into account the variations which had occurred between 1992 and the IP. According to these exporters, the trends concerning consumption and other injury factors such as sales, market share and production, observed between 1992 and the IP, corroborated the fact that the Community industry did not suffer any injury.
- (24) As a matter of principle it should be recalled that in anti-dumping investigations the time period on which the analysis and the determination of injury is based covers a period of several years. As mentioned in recital 6 of the Provisional Regulation, in the investigation at issue this period covered the time from 1 January 1991 to the end of the IP, namely 31 December 1994.

As set out in recitals 51 to 53 of the Provisional Regulation, injury has been assessed and determined in the light of the evidence available for the period covering the analysis of injury by considering the development and trends of the various injury factors throughout this entire period.

- (25) The analysis of injury has shown that dumped imports have continuously increased both in absolute terms (+ 87 %) as well as in terms of Community market share (+ 83 %) from 1991 to the IP (1994).
- (26) As regards prices, it has been found that Polish pallet prices decreased significantly over the above period, i.e. by 26 %. Furthermore, during the IP an average price undercutting level of 14 % was found to exist.

- (27) As far as the situation of the Community industry is concerned, the investigation has shown that all the injury factors investigated and analysed in detail, namely sales, production, capacity utilization, market share, profitability, price trends and employment have continuously deteriorated since 1991.

The imports under investigation therefore had a considerable impact on both the Community market and the Community industry. As mentioned in recital 51 of the Provisional Regulation this conclusion was reached despite the fact that the Community industry's production, capacity utilization and sales improved from 1993 up to the IP due to the fact that this improvement was only the result of a recovery of Community consumption back to the level prevailing in 1991. Other factors, notably the development of the Community industry's market shares, prices and profitability, clearly showed a negative trend which can only be explained by the existence of the dumped imports. The argument raised by the Polish exporters could therefore not be accepted.

- (28) As there is no concrete or positive evidence which would allow the modification of the provisional conclusion made by the Commission whereby the Community industry had suffered material injury within the meaning of Article 3 of the Basic Regulation, this conclusion is confirmed.

#### G. CAUSATION OF INJURY

- (29) As far as the analysis of the causal link between dumping and injury is concerned, the abovementioned Polish exporters claimed that this analysis was not consistently based on data relating to the whole Community.

In this respect reference is made to recitals 54 to 69 of the Provisional Regulation where it was established that a causal link between dumping and injury existed on a Community-wide level. The Provisional Regulation also pointed out that the aforementioned conclusion had been reinforced and confirmed by a more detailed and thorough analysis carried out in specific Member States referred to as 'selected markets' in the Provisional Regulation. This analysis clearly showed that the claim made by these two exporters could not, therefore, be accepted.

- (30) In the absence of any further argument, the findings set out in the Provisional Regulation are confirmed indicating that in accordance with Article 3 (6) of the Basic Regulation dumped

imports have caused material injury to the Community industry.

#### H. COMMUNITY INTEREST

- (31) As no new arguments were received in connection with the Community interest analysis made in the Provisional Regulation, the provisional findings are confirmed.

#### I. ANTI-DUMPING MEASURES

- (32) Based on the above conclusions on dumping, injury, causal link and Community interest, it was considered what form and level of anti-dumping measures would have to be taken in order to remove the trade-distorting effects of injurious dumping and to restore effective competitive conditions on the Community market.
- (33) Since the level of prices at which the injurious effects of the imports would be removed was higher than the dumping margins found in the investigation, the level of the measures should be based on the dumping margins.
- (34) As already mentioned in recital 2, the Commission has, at the provisional stage of the investigation, accepted undertakings pursuant to Article 8 of the Basic Regulation in respect of the EUR pallet. Pursuant to these undertakings, the Polish exporters have, *inter alia*, offered not to sell EUR pallets below a certain minimum price. The undertakings also contain strict monitoring provisions. Furthermore, it will be recalled that exports of pallet types other than the EUR pallet made by exporters from which an undertaking was accepted as well as all other exports of the product concerned to the Community made by other exporters were subject to a provisional anti-dumping duty.
- (35) It is now definitively confirmed that the combined effect of the undertakings and the anti-dumping duty is considered sufficient to remove the injurious effects of dumping. Since the investigation has now been concluded, definitive anti-dumping duties will be imposed in case of violation or withdrawal of an undertaking given by any exporter. The level of the duty for the EUR-pallet type in case of such breach or violation would be the same as the duty applicable to imports of other types of pallet.
- (36) On the above basis, and, where applicable, in parallel with undertakings accepted, definitive duties, in the form of *ad valorem* duties, should be imposed.

## J. NEW EXPORTERS

- (37) As already mentioned in recital 3 above, the Commission, by Regulation (EC) No 1633/97 amending the Provisional Regulation, allocated the weighted average duty imposed on cooperating exporters not investigated to a number of genuine new exporters. By that Regulation (EC) No 1633/97 the Commission accepted undertakings with regard to EUR pallets from some of these new exporters, thus exempting them from any provisional duty with regard to that type of pallet.

This treatment of genuine new exporters is definitively confirmed.

- (38) In the meantime, the Commission has received further applications from allegedly new exporters. Those applicants which provided sufficient evidence showing that they are genuine new exporters should be made subject to the weighted average definitive duty. Furthermore, the new exporters from which the Commission has accepted an undertaking under Commission Decision 97/797/EC<sup>(1)</sup> should be exempted from any anti-dumping duty with regard to that type of pallet.
- (39) A provision should be included in this Regulation whereby, through an amendment thereto, any genuine new exporters who may come forward in the future should be made subject to the weighted average duty and should be exempted from any duty in cases where the Commission accepts undertakings from those exporters.

## K. COLLECTION OF THE PROVISIONAL DUTIES

- (40) In view of the magnitude of the dumping margins found for the exporting producers and in the light of the seriousness of injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duties should be definitively collected at the level of the definitive duties for newly produced flat pallets of wood originating in Poland. Amounts secured in excess of the level of the definitive duties and amounts secured for repaired, used and loaded pallets should be released,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. A definitive anti-dumping duty is hereby imposed on imports of new flat pallets of wood falling within CN code ex 4415 20 20 (Taric code: 4415 20 20\*10), originating in Poland. This duty shall not apply to imports of used and of repaired flat pallets of wood.

Flat pallets of wood which are loaded with other goods for the purpose of importing those goods into the Community shall be treated as used pallets provided that the goods in question are the main purpose of the import and that the pallets represent only a minor proportion of the total value of the goods imported.

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

Manufacturer	Rate of duty	Taric Additional Code
Zielonogorskie Przedsiębiorstwo Przemysłu Drzewnego, PL-65-950 Zielona Gora	10,6 %	8013
Firma 'Sabelmar' — Leszek Sabela, PL-43-525 Konczyce Male	9,8 %	8014
P.P.H.U. 'Alpa' Sp. z o.o., PL-76-038 Dobrzyca	5,9 %	8015
P.P.H.U. 'Palimex' Sp. z o.o., PL-64-140 Włoszakowice	5,9 %	8015
P.W. 'Intur-KFS' Sp. z o.o., PL-88-100 Inowroclaw	9,7 %	8016
'Paletex' Produkcja Palet, Roman Panasiuk, PL-01-601 Warszawa	9,8 %	8014
Przedsiębiorstwo Produkcji Handlu I Usług S.C. 'Eldagran', Mr M. Zeminski, PL-78-314 Sławoborze	4,9 %	8017

<sup>(1)</sup> See page 36 of this Official Journal.

Manufacturer	Rate of duty	Taric Additional Code
Z.P.H. 'Palettenwerk' — K. Kozik, PL-34-789 Bystra Podhalanska	4,0 %	8018
Przedsiębiorstwo Produkcyjno Handlowe, 'Tor-Pal' Sp. z o.o., PL-82-500 Kwidzyn	0 %	8020
Rolnicza Spółdzielnia Produkcyjna Rzecko, PL-73-200 Choszczno	0 %	8020
Companies listed in Annex I to this Regulation	6,3 %	8019
Others	10,6 %	8900

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

#### Article 2

Notwithstanding Article 1, the duties shall not apply to imports of one specific pallet type, namely the EUR pallet, being a flat pallet of wood, marked by the registered mark 'EUR' and the initials of the approving railway, manufactured, exported to the Community and invoiced to buyers established in the Community by the companies listed in Annex II to this Regulation in respect of which undertakings have been accepted by Commission Regulation (EC) No 1023/97 and Commission Decision 97/797/EC.

#### Article 3

The amounts secured by way of provisional anti-dumping duty under Regulation (EC) No 1023/97 shall be definitively collected at the duty rates definitively imposed. Amounts secured in excess of the definitive rate of anti-dumping duty and amounts secured for repaired, used and loaded pallets shall be released.

#### Article 4

1. Where any party provides sufficient evidence to the Commission that:

- it did not export to the Community or produce the goods described in Article 1 (1) during the investigation period,
- it is not related to any of the exporters or producers in the exporting country which are subject to the anti-dumping duties imposed by this Regulation,
- it has actually exported to the Community the goods concerned after the investigation period, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Community,

then the Council, acting by simple majority on a proposal submitted by the Commission after consulting the Advisory Committee, may amend this Regulation by adding that party to the list of companies in Annex I.

2. Where the Commission accepts undertakings with regard to the EUR pallet from any party mentioned in paragraph 1 with regard to the EUR pallet, the Council, acting by simple majority on a proposal submitted by the Commission after consulting the Advisory Committee, may amend this Regulation by adding that party to the list of companies in Annex II.

#### Article 5

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

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

Done at Brussels, 24 November 1997.

For the Council

The President

J. POOS



## ANNEX I

## Manufacturer

'Baum-Holz' SC, PL-10-547 Olsztyn  
'DAST' GmbH, PL-60-682 Poznan  
Drew-Pol Export-Import, Mr. Wodarz Norbert, PL-46-030 Murow  
Eugeniusz Dziurny — Czeslaw Nowak, PL-38-313 Snietnica  
F.P.H. 'Tina' — E.J. Grabias, PL-40-733 Katowice  
Firma Produkcyjno-Handlowa, Mr. Tadeusz Fisher, PL-87-313 Maly Gleboczek  
Firma Produkcyjno-Uslugowo-Handlowa 'Rol-Mar', Mr. Adam Piatek, PL-57-300 Klodzko  
Import-Export, Miroslaw Przybytek, PL-98-363 Klonowa  
Internationale Paletten Company, PL-84-300 Lebork  
'Kross-Pol' Sp. z o.o., PL-78-100 Kolobrzeg  
P.P.H. 'Drewnex' SA, PL-31-159 Krakow  
P.P.H. 'GKT' SC, PL-23-414 Majdan Nowy  
P.P.H. 'Pamadex' J. Szczypka, PL-43-518 Ligota  
P.P.H. 'Unikat', PL-23-408 Aleksandrow IV  
P.P.H.U. 'Adapol' SC, PL-05-200 Wolomin  
P.P.H.U. 'Alwa' Sp. z o.o., PL-76-123 Tychowo  
P.P.H.U. 'SMS' — St. Mrozowicz, PL-83-320 Suleczyno  
P.T.H. 'Mirex', PL-78-100 Kolobrzeg  
P.W. 'Peteco' Sp. z o.o., PL-04-330 Warszawa  
Parafia Rzymsko-Katolicka, Mr. B. Niepokalaneg Dzialalnose Gospodaroza, PL-33-300 Nowy Sacz  
Produkcja Palet 'Andrzej Adamus', Mr. Marek Gajzler, PL-63-523 Kuznia Grabowska  
Produkcja, Skup Palet Drewnianych, Stanislaw Lachowicz, PL-37-536 Majdan Sieniawski 170  
Przedsiębiorstwo 'Amesko', Mr. Andrzej Skora, Director, PL-55-100 Trzebnica  
Przedsiębiorstwo Handlowe Uslugowe 'Justyna', PL-66-620 Gubin  
Przedsiębiorstwo Handlowe-Uslugowe 'Akropol', PL-30-140 Krakow  
Przedsiębiorstwo Handlowe Uslugowe Produkcyjne 'Lech', Mr. Lech Szwec, PL-68-200 Zary  
Przedsiębiorstwo Obrobki Drewna 'Palet-Pol' Sp. o.o., Mr. Andrzej Niemiec, PL-66-311  
Dabrowka WLKP  
Przedsiębiorstwo Produkcyjno Handlowe, Zygmunt Skibinski, PL-87-820 Kowal  
Przedsiębiorstwo Produkcyjno Handlowe-Uslugowe, 'AWA' Sp. z o.o., PL-33-300 Nowy Sacz  
Przedsiębiorstwo Wielobranzowe, Mr. Zdzislaw Milocki, PL-14-100 Ostroda  
'Scan-Product-System Wood' SA, Podczerwone, PL-34-470 Czarny Dunajec  
SC 'Bed', Mr. Dariusz Zuk, PL-21-004 Krasienin  
S.U.T.R. 'Rol Trak', PL-59-230 Prochowice  
Stolarstwo Export-Import, Mr. Tadeusz Swirski, PL-57-520 Dlugopole Zdroj  
Torunskie Przedsiębiorstwo Przemyslu Drzewnego w Toruniu, Mr. Adam Wisniewski, PL-87-100  
Torun  
'Transdrewneks' Sp. z o.o., PL-86-317 Grudziadz-Owczarki  
W.Z.P.U.M. 'Euro-Tech', Import-Export Spedycja, PL-87-111 Rakszawa  
Wytwarzanie Skrzyn i Opakowan Drewnianych, Malgorzata i Ryszard Nowak, PL-77-207 Piaszyna  
Zaklad Produkcyjno Bohuszko, Mr. Ryszard Bohuszko, PL-69-220 Osno  
Zaklad Produkcyjno Handlowy 'Maw' SC, Mr. Andrzej Kulej, PL-58-536 Lubomierz  
Zakled Uslugowo-Handlowy 'Rolmex', Mr. E. Cackowski, Direktor, PL-87-600 Lipno  
Zaklad Wielobranzowy Produkcyjno Uslugowy, Ryszard Potoniec, PL-33-370 Muszyna  
Zaklad Przerobu Drewna, J.Z.S. Kawinsky, PL-78-500 Drawsko Pomorskie  
Zphu 'Drewex', Spolka Cywilna, Ms. Agnieszka Pawlaczyk, PL-66-440 Skwierzyna  
ZPHU 'Sek-Pol' — 'Hadpol' — Krzysztof Hadrys, PL-39-400 Tarnobrzeg

'Euro-Mega-Plus' Sp. z o.o., PL-25-632 Kielce  
'C.M.C.', Sp. z o.o., PL-31-213 Kraków  
Wyrób, Sprzedaz, Skup Palet, Josef Kolodziejczyk, PL-23-408 Aleksandrów IV 704  
Firma Produkcyjno Transportowa, Marian Gierka, PL-87-300 Brodnica  
ZPHU 'Drewnex', SC Export-Import, PL-62-818 Zelazków 45 b  
Import-Export 'Elko', Sp. z o.o., PL-62-800 Kalisz  
PPHU 'Probox', Import-Export, PL-62-800 Kalisz  
Drewpal, SC, PL-62-820 Stawiszyn  
Zaman, SC, PL-26-600 Radom  
'Marimpex', PL-24-100 Pulawy  
'Aven', Sp. z o.o., PL-66-470 Kostrzyn  
P.P.H.U. 'Eurex' SC, PL-98-276 Godynice  
P.H. 'Drewex' SC, PL-84-300 Lebork  
MACED Sklad Palet, Jadwiga Macionga, PL-77-200 Miastko  
ENKEL Spółka Cywilna, PL-24-100 Pulawy  
PAL-PACK s.p. z o.o., PL-78-530 Wierzchowo  
Produkcja Stolarska Posrednictwo Export-Import, W.i.T. Hensoldt, PL-84-300 Lebork  
Biuro Usługowo-Handlowe, Wieslaw Rzezniczek, PL-84-300 Lebork  
Przedsiębiorstwo Produkcyjno Usługowo Handlowe 'Drewpol', PL-98-277 Braszewice  
PTN Kruklanki Sp. z o.o., PL-11-612 Kruklanki  
WEDAM Spółka Cywilna, PL-83-322 Stezyca  
Import-Export Jan Sibinski, PL-63-524 Czajkow  
Zaklad Produkcyjny 'Tarta', PL-68-300 Lubsko  
Firma 'Krausdrew', PL-84-312 Cewice  
'Lidal' Spolka Cywilna, PL-77-200 Miastko  
Zakled Przerobu Drewna Import-Export, Stanislaw Kociolek, PL-57-540 Ladek Zdroj  
P.P.H.U. 'Alk', PL-73-240 Bierzwnik  
'Empol' s.c., PL-62-812 Jastrzebniki 37  
Zaklad Produkcji Drzewnej Nr. 1, Export-Import, Julian Bartkowski, PL-38-500 Sanok  
Przedsiębiorstwo Produkcyjno Handlowe 'Drewex', PL-64-700 Czarnkow  
'ZAP' Przedsiębiorstwo Handlowe-Usługowe Sp.C, PL-67-400 Wschowa  
P.P.H.U. 'Opal', Zygmunt Podgorski, PL-38-505 Bukowsko 41  
'Algepa-Pol', Spolka z o.o., PL-68-300 Lubsko

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## ANNEX II

Manufacturer	Taric Additional Code
'Baum-Holz' SC, PL-10-547 Olsztyn	8570
Eugeniusz Dziurny — Czeslaw Nowak, PL-38-313 Snietnica	8571
F.P.H. 'Tina' — E.J. Grabias, PL-40-733 Katowice	8572
Firma 'Sabelmar' — Leszek Sabela, PL-43-525 Konczyce Male	8573
Import-Export, Mirosław Przybyłek, PL-98-363 Klonowa	8574
Internationale Paletten Company, PL-84-300 Lebork	8575
'Kross-Pol' Sp. z o.o., PL-78-100 Kolobrzeg	8576
P.P.H.'Drewnex' SA, PL-31-159 Kraków	8577
P.P.H. 'GKT' SC, PL-23-414 Majdan Nowy	8584
P.P.H. 'Pamadex' J. Szczypka, PL-43-518 Ligota	8585
P.P.H. 'Unikat', PL-23-408 Aleksandrow IV	8586
P.P.H.U. 'Adapol' SC, PL-05-200 Wolomin	8587
P.P.H.U. 'Alpa' Sp. z o.o., PL-76-038 Dobrzyca	8588
P.P.H.U. 'Alwa' Sp. z o.o., PL-76-123 Tychowo	8589
P.P.H.U. 'Palimex' Sp. z o.o., PL-64-140 Wloszakowice	8590
P.P.H.U. 'SMS' — St. Mrozowicz, PL-83-320 Suleczyno	8591
P.T.H. 'Mirex', PL-78-100 Kolobrzeg	8597
P.W. 'Intur-KFS' Sp. z o.o., PL-88-100 Inowroclaw	8662
P.W. 'Peteco' Sp. z o.o., PL-04-330 Warszawa	8690
'Paletex' Produkcja Palet, Roman Panasiuk, PL-01-601 Warszawa	8691
Produkcja Palet 'Andrzej Adamus', Mr. Marek Gajzler, PL-63-523 Kuznia Grabowska	8692
Przedsiębiorstwo Produkcyjno Handlowe, Zygmunt Skibinski, PL-87-820 Kowal	8693
Przedsiębiorstwo Handlowe-Usługowe 'Akropol', PL-30-140 Kraków	8713
S.U.T.R. 'Rol Trak', PL-59-230 Prochowice	8714
'Scan-Product-System Wood' SA, Podczerwone, PL-34-470 Czarny Dunajec	8715
'Transdrewneks' Sp. z o. o., PL-86-317 Grudziadz-Owczarki	8716
W.Z.P.U.M. 'Euro-Tech', Import-Export Spedycja, PL-87-111 Rakszawa	8725

Manufacturer	Taric Additional Code
Z.P.H. 'Palettenwerk' — K. Kozik, PL-34-789 Bystra Podhalanska	8726
Zakład Przerobu Drewna, J.Z.S. Kawinsky, PL-78-500 Drawsko Pomorskie	8745
ZPHU 'Sek-Pol' — 'Hadpol' — Krzysztof Hadrys, PL-39-400 Tarnobrzeg	8526
'Euro-Mega-Plus' Sp. z o.o., PL-25-632 Kielce	8527
'C.M.C.', PL-31-213 Kraków	8528
Wyrób, Sprzedaz, Skup Palet, Josef Kolodziejczyk, PL-23-408 Aleksandrów IV 704	8529
Firma Produkcyjno Transportowa, Marian Gierka, PL-87-300 Brodnica	8530
ZPHU 'Drewnex', SC Export-Import, PL-62-818 Zelazków 45 b	8531
Import-Export 'Elko', Sp. z o.o., PL-62-800 Kalisz	8532
PPHU 'Probox', Import-Export, PL-62-800 Kalisz	8533
Drewpal, SC, PL-62-820 Stawiszyn	8534
Zaman, SC, PL-26-600 Radom	8535
'Marimpex', PL-24-100 Pulawy	8537
P.P.H.U. 'Eurex' SC, PL-98-276-Godynice	8538
MACED Skład Palet, Jadwiga Macionga, PL-77-200 Miastko	8539
ENKEL Spółka Cywilna, PL-24-100 Pulawy	8540
Produkcja Stolarska Posrednictwo Export-Import, W.i.T. HENSOLDT, PL-84-300 Lebork	8541
Przedsiębiorstwo Produkcyjno Usługowo Handlowe 'DREWPOL', PL-98277 Braszewice	8834
PTN Krukłanki Sp. z o.o., PL-11612 Krukłanki	8556
WEDAM Spółka Cywilna, PL-83-322 Stezyca	8557
'AVEN' Sp. z o.o., PL-66-470 Kostrzyn	8558
Import-Export Jan Sibinski, PL-63-524 Czajkovo	8559
'Empol' s.c., PL-62-812 Jastrzebniki 37	8560
P.P.H.U. 'Alk', PL-73-240 Bierzwnik	8561

**COUNCIL REGULATION (EC) No 2335/97**  
of 24 November 1997

**repealing Regulation (EEC) No 611/93 with respect to the imposition of a definitive anti-dumping duty on imports into the Community of certain electronic microcircuits known as DRAMs originating in the Republic of Korea**

THE COUNCIL OF THE EUROPEAN UNION,

**C. Product under consideration**

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community<sup>(1)</sup>, and in particular Article 11 (3) thereof,

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

Whereas:

**A. Previous procedure**

- (1) By Decision 93/157/EEC<sup>(2)</sup>, the Commission accepted undertakings from all known Korean DRAM producers which exported this product to the Community. The Council, by Regulation (EEC) No 611/93<sup>(3)</sup>, imposed a residual duty on imports of DRAMs originating in the Republic of Korea in order to bring non-cooperating parties within the scope of the measures against the dumping of DRAMs and to underpin the undertakings.
- (2) In June 1995, the Commission decided by Decision 95/197/EC<sup>(4)</sup>, to suspend the above anti-dumping measures for a period of nine months. In March 1996, the suspension was extended by the Council by Regulation (EC) No 399/96<sup>(5)</sup>, for a further period of 12 months.

**B. Review investigation**

- (3) In July 1995, the Commission initiated on its own initiative an interim review concerning imports of DRAMs originating in Japan and the Republic of Korea pursuant to Article 11 (3) of Regulation (EC) No 384/96<sup>(6)</sup> (hereinafter referred to as the 'Basic Regulation').

- (4) The product concerned by this investigation is dynamic random access memories (DRAMs), whether in processed wafer form or dice form, assembled or further processed onto modules, manufactured using variations of Metal Oxide Semiconductor (MOS) process technology, including CMOS and BiCMOS etc., and including, without limitation, product variations using DRAM technology such as VRAMs, pseudo SRAMs, S-DRAMs (synchronous DRAMs), MDRAMs (multibank DRAMs), R-DRAMs (RAMBUS-DRAMs), of all densities (including future densities), irrespective of access speed, configuration, frame or package, etc.

- (5) The product is currently classifiable under the following CN codes: 8542 13 11, 8542 13 13, 8542 13 15, 8542 13 17, 8542 19 01, 8542 19 05 (for finished DRAMs), 8542 13 01 (for DRAM wafers), 8542 13 05 (for DRAM dice or chips), 8548 90 00, 8473 30 10 and 8473 50 10 (for DRAM modules, DRAM boards and DRAM cards).

**D. Definition of the Community industry**

- (6) The Community industry concerned by this review consists of Motorola Ltd (UK), SIEMENS (D) and Texas Instruments Italia (I). All of them cooperated in this investigation and are members of the European Electronic Component Manufacturers' Association (EECA), which lodged the original complaint.
- (7) The collective output of the abovementioned Community industry constitutes a major proportion of the total Community production of DRAMs in accordance with Article 4 (1) of the Basic Regulation.

**E. Withdrawal of support to the proceeding**

- (8) In July 1997, the Community industry withdrew its support for the continuation of the existing anti-dumping measures, (both with respect to imports from Japan and from Korea). The complainant considered it appropriate to take this step in view of the envisaged negotiation of voluntary industry-to-industry agreements between the complainant Community industry and the Japanese and Korean associations of DRAM producers, the aim of which

<sup>(1)</sup> OJ L 56, 6. 3. 1996, p. 1. Regulation as amended by Regulation (EC) No 2331/96 (OJ L 317, 6. 12. 1996, p. 1).

<sup>(2)</sup> OJ L 66, 18. 3. 1993, p. 37.

<sup>(3)</sup> OJ L 66, 18. 3. 1993, p. 1.

<sup>(4)</sup> OJ L 126, 9. 6. 1995, p. 56.

<sup>(5)</sup> OJ L 55, 6. 3. 1996, p. 1.

<sup>(6)</sup> OJ C 181, 15. 7. 1995, p. 13.

is to prevent the future occurrence of injurious dumping and to ensure that, should any anti-dumping investigation be initiated, it may be carried out expeditiously. The Community industry has committed itself to notify the agreements, if any, to the Commission under the competition rules.

#### F. Repeal of the anti-dumping duty and termination of the proceeding

- (9) It follows from the principle expressed in Article 9 (1) of the Basic Regulation that when the Community industry withdraws its support for the continuation of the anti-dumping measures, the proceeding must be terminated unless such termination would not be in the Community interest. The investigation has not brought to light any aspects which would support the continuation of the measures in these circumstances.
- (10) In view of the above, the Commission informed the interested parties of its intention to propose to the Council to repeal the anti-dumping duty in force and to terminate the proceeding following the withdrawal of support. No further arguments were raised concerning the Community interest aspects.
- (11) However, several Community users of DRAMs have requested that the anti-dumping duty be repealed and the proceeding be terminated retroactively as from 10 March 1997, i.e. the date on which the anti-dumping duty was reinstated after expiry of the suspension of the measures. As a consequence, anti-dumping duties paid after this date would have to be reimbursed.
- (12) The users have argued that, following the reinstatement of the anti-dumping duties in March 1997, they could not always avoid paying anti-dumping duty by purchasing DRAMs through sales channels covered by the undertakings. These parties have further claimed that, due to the reference price system of the price undertakings, (which were likewise reinstated in March 1997), they had to pay higher prices for DRAMs purchased in the Community than competitors in the rest of the world. The users concerned have claimed that these circumstances have had a negative impact on their competitiveness.
- (13) The users also referred to the disclosure of the preliminary findings of the Commission's services. They noted that it had been envisaged by the Commission's services that, as regards Japan, a lower residual duty should be imposed with retroactive effect from 10 March 1997, the date of the reinstatement of the anti-dumping measures. Had the investigation been concluded in this way, the

difference between the initial and the final duty rate would have been refunded to importers which had paid anti-dumping duty. The users have argued that, if retroactivity was considered justified on the hypothesis that the measures would be reimposed, then retroactivity would, a fortiori, be justified where the investigation was being concluded by the termination of the proceeding.

- (14) With regard to the above-mentioned request, it is considered that, as the Basic Regulation does not provide for the retroactive termination of proceedings, this request could only be accepted if justified by general principles of Community law. However, none of these principles apply in the current case.
- (15) In one anti-dumping proceeding, in Regulation (EEC) No 2655/93<sup>(1)</sup>, the review was terminated retroactively on the grounds that the anti-dumping measures had been prolonged by more than three years due to the long duration of the (sunset) review investigation. However, the facts of this case are not comparable to the current proceeding, since this is an interim review which took place during the normal five year period. Moreover, the anti-dumping measures in the current proceeding were suspended between June 1995 and March 1997, i.e. for all but a few months of the period by which the measures were prolonged by the review. The Community user industry, which had requested and has benefited from this suspension, thus cannot be considered to have been unduly burdened by this review investigation.
- (16) As regards the argument raised by the users in respect of imports through sales channels subject to the residual duties, such difficulties are inherent to the structure of the measures, and cannot be considered as justifying a retroactive termination.
- (17) Moreover, it cannot be accepted that the users were unduly burdened if, as claimed, they had to purchase Japanese and Korean DRAMs at prices above the prices outside the Community, due to the reference price system. The reference prices, which were continuously amended to reflect changes in normal value, ensured only that imports covered by the undertakings were not made at dumped prices, and sales in third markets at prices below the reference prices can therefore be assumed to have been dumped. The fact that dumping in third countries has enabled users in those countries to enjoy a competitive advantage over users in the Community is not considered a relevant argument for the retroactive repeal of the residual duties.

<sup>(1)</sup> OJ L 244, 30. 9. 1993, p. 1.

- (18) Furthermore, it is considered that the users' request cannot be based on the fact that the Commission had, in disclosing its provisional findings in the investigation, indicated that, in the event of a final determination that the likelihood of a recurrence of dumping and injury justified the reimposition of measures, the amended anti-dumping duty for Japan could be imposed retroactively. The provisional character of these indications was understood by all interested parties, thus legitimate expectations could not arise on these grounds.
- (19) In addition, retroactive termination, giving rise to the reimbursement of anti-dumping duties paid as from 10 March 1997, would discriminate against those exporters which adhered to the reference prices set under the undertakings, and against those importers who have purchased at these prices. This would be the case in particular, if, as the users have submitted, the prices in the Community had been higher than the world market prices, due to the reference price system.
- (20) Finally, it should be noted that any anti-dumping duty paid may always be reimbursed through a request for a refund, pursuant to Article 11 (8) of the Basic Regulation.
- (21) In the light of the above, the request for the retroactive repeal of the anti-dumping duty is rejected.
- (22) After having considered all the various interests involved taken as a whole, it was concluded that the anti-dumping duty on DRAMs from the Republic of Korea should be repealed and that the proceeding thereby terminated. Consequently, the corresponding undertakings offered by Korean exporters and accepted by Commission Decision 93/157/EEC serve no further purpose,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 611/93 is hereby repealed and the proceeding concerning imports of DRAMs originating in the Republic of Korea is thereby terminated.

*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, 24 November 1997.

*For the Council*

*The President*

J. POOS

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## COMMISSION REGULATION (EC) No 2336/97

of 26 November 1997

## fixing the representative prices and the additional import duties for molasses in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar<sup>(1)</sup>, as last amended by Regulation (EC) No 1599/96<sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68<sup>(3)</sup>, and in particular Articles 1 (2) and 3 (1) thereof,

Whereas Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68<sup>(4)</sup>; whereas that price should be fixed for the standard quality defined in Article 1 of the above Regulation;

Whereas the representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; whereas that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality; whereas the standard quality for molasses is defined in Regulation (EEC) No 785/68;

Whereas, when the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States; whereas, under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends;

Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small quantity that is not representative of the market; whereas offer prices which can be regarded as not rep-

resentative of actual market trends must also be disregarded;

Whereas, if information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68;

Whereas a representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price;

Whereas where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95; whereas should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed;

Whereas application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 27 November 1997.

<sup>(1)</sup> OJ L 177, 1. 7. 1981, p. 4.

<sup>(2)</sup> OJ L 206, 16. 8. 1996, p. 43.

<sup>(3)</sup> OJ L 141, 24. 6. 1995, p. 12.

<sup>(4)</sup> OJ L 145, 27. 6. 1968, p. 12.



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

Done at Brussels, 26 November 1997.

*For the Commission*  
 Franz FISCHLER  
*Member of the Commission*

ANNEX

**fixing the representative prices and additional import duties applying to imports of molasses in the sugar sector**

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 <sup>(2)</sup>
1703 10 00 <sup>(1)</sup>	8,18	—	0,03
1703 90 00 <sup>(1)</sup>	11,18	—	0,00

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

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

**COMMISSION REGULATION (EC) No 2337/97**  
**of 26 November 1997**  
**altering the export refunds on white sugar and raw sugar exported in the natural state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector <sup>(1)</sup>, as last amended by Regulation (EC) No 1599/96 <sup>(2)</sup>, and in particular the second subparagraph of Article 19 <sup>(4)</sup> thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 2293/97 <sup>(3)</sup>;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 2293/97 to the informa-

tion known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 2293/97 are hereby altered to the amounts shown in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 27 November 1997.

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

Done at Brussels, 26 November 1997.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

<sup>(1)</sup> OJ L 177, 1. 7. 1981, p. 4.

<sup>(2)</sup> OJ L 206, 16. 8. 1996, p. 43.

<sup>(3)</sup> OJ L 316, 20. 11. 1997, p. 3.

## ANNEX

to the Commission Regulation of 26 November 1997 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— ECU/100 kg —
1701 11 90 9100	37,31 <sup>(1)</sup>
1701 11 90 9910	32,93 <sup>(1)</sup>
1701 11 90 9950	<sup>(2)</sup>
1701 12 90 9100	37,31 <sup>(1)</sup>
1701 12 90 9910	32,93 <sup>(1)</sup>
1701 12 90 9950	<sup>(2)</sup>
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 9000	0,4056
	— ECU/100 kg —
1701 99 10 9100	40,56
1701 99 10 9910	39,78
1701 99 10 9950	39,78
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 9100	0,4056

<sup>(1)</sup> Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 17a (4) of Regulation (EEC) No 1785/81.

<sup>(2)</sup> Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ L 255, 26. 9. 1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ L 309, 21. 11. 1985, p. 14).

**COMMISSION REGULATION (EC) No 2338/97**  
**of 26 November 1997**

**fixing the maximum export refund for white sugar for the 17th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1408/97**

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector <sup>(1)</sup>, as last amended by Regulation (EC) No 1599/96 <sup>(2)</sup>, and in particular the second subparagraph of Article 17 (5) (b) thereof,

Whereas Commission Regulation (EC) No 1408/97 of 22 July 1997 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar <sup>(3)</sup>, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1408/97 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 17th partial invitation to

tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 17th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1408/97 the maximum amount of the export refund is fixed at ECU 42,804 per 100 kilograms.

*Article 2*

This Regulation shall enter into force on 27 November 1997.

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

Done at Brussels, 26 November 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 177, 1. 7. 1981, p. 4.

<sup>(2)</sup> OJ L 206, 16. 8. 1996, p. 43.

<sup>(3)</sup> OJ L 194, 23. 7. 1997, p. 16.

**COMMISSION REGULATION (EC) No 2339/97**  
**of 26 November 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<sup>(1)</sup>, as last amended by Regulation (EC) No 2375/96<sup>(2)</sup>, 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<sup>(3)</sup>, as last amended by Regulation (EC) No 150/95<sup>(4)</sup>, 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 27 November 1997.

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

Done at Brussels, 26 November 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 337, 24. 12. 1994, p. 66.

<sup>(2)</sup> OJ L 325, 14. 12. 1996, p. 5.

<sup>(3)</sup> OJ L 387, 31. 12. 1992, p. 1.

<sup>(4)</sup> OJ L 22, 31. 1. 1995, p. 1.

## ANNEX

to the Commission Regulation of 26 November 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
0702 00 45	204	46,9
	999	46,9
0709 90 79	052	100,9
	999	100,9
0805 20 31	052	60,1
	204	62,8
	999	61,4
0805 20 33, 0805 20 35, 0805 20 37, 0805 20 39	052	56,2
	400	50,5
	999	53,4
0805 30 40	052	78,5
	600	82,5
	999	80,5
0808 10 92, 0808 10 94, 0808 10 98	052	51,0
	060	44,4
	064	42,0
	400	88,1
	404	84,5
	999	62,0
	999	62,0
0808 20 67	052	109,3
	064	83,8
	400	99,5
	999	97,5

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

**COMMISSION REGULATION (EC) No 2340/97**  
**of 26 November 1997**  
**fixing the import duties in the rice sector**

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector <sup>(2)</sup>, as last amended by Regulation (EC) No 1403/97 <sup>(3)</sup>, and in particular Article 4 (1) thereof,

Whereas Article 11 of Regulation (EC) No 3072/95 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by a certain percentage according to whether it is husked or milled rice, minus the cif import price provided that duty does not exceed the rate of the Common Customs Tariff duties;

Whereas, pursuant to Article 12 (3) of Regulation (EC) No 3072/95, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market or on the Community import market for the product;

Whereas Regulation (EC) No 1503/96 lays down detailed rules for the application of Regulation (EC) No 3072/95 as regards import duties in the rice sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available from the source referred to in Article 5 of Regulation (EC) No 1503/96 during the two weeks preceding the next periodical fixing;

Whereas, in order to allow the import duty system to function normally, the market rates recorded during a reference period should be used for calculating the duties;

Whereas application of Regulation (EC) No 1503/96 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The import duties in the rice sector referred to in Article 11 (1) and (2) of Regulation (EC) No 3072/95 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

*Article 2*

This Regulation shall enter into force on 27 November 1997.

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

Done at Brussels, 26 November 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 329, 30. 12. 1995, p. 18.

<sup>(2)</sup> OJ L 189, 30. 7. 1996, p. 71.

<sup>(3)</sup> OJ L 194, 23. 7. 1997, p. 2.

## ANNEX I

## to the Commission Regulation of 26 November 1997 fixing the import duties on rice and broken rice

(ECU/tonne)

CN code	Duties (°)			
	Third countries (except ACP and Bangladesh) (°) (°)	ACP Bangladesh (°) (°) (°) (°)	Basmati India and Pakistan (°)	Egypt (°)
1006 10 21	(°)	130,91		202,88
1006 10 23	(°)	130,91		202,88
1006 10 25	(°)	130,91		202,88
1006 10 27	(°)	130,91		202,88
1006 10 92	(°)	130,91		202,88
1006 10 94	(°)	130,91		202,88
1006 10 96	(°)	130,91		202,88
1006 10 98	(°)	130,91		202,88
1006 20 11	318,21	154,77		238,66
1006 20 13	318,21	154,77		238,66
1006 20 15	318,21	154,77		238,66
1006 20 17	247,60	119,46	0,00	185,70
1006 20 92	318,21	154,77		238,66
1006 20 94	318,21	154,77		238,66
1006 20 96	318,21	154,77		238,66
1006 20 98	247,60	119,46	0,00	185,70
1006 30 21	(°)	251,59		399,75
1006 30 23	(°)	251,59		399,75
1006 30 25	(°)	251,59		399,75
1006 30 27	(°)	251,59		399,75
1006 30 42	(°)	251,59		399,75
1006 30 44	(°)	251,59		399,75
1006 30 46	(°)	251,59		399,75
1006 30 48	(°)	251,59		399,75
1006 30 61	(°)	251,59		399,75
1006 30 63	(°)	251,59		399,75
1006 30 65	(°)	251,59		399,75
1006 30 67	(°)	251,59		399,75
1006 30 92	(°)	251,59		399,75
1006 30 94	(°)	251,59		399,75
1006 30 96	(°)	251,59		399,75
1006 30 98	(°)	251,59		399,75
1006 40 00	(°)	78,38		123,00

(°) Subject to the application of the provisions of Articles 12 and 13 of amended Council Regulation (EEC) No 715/90 (OJ L 84, 30. 3. 1990, p. 85).

(°) In accordance with Regulation (EEC) No 715/90, the duties are not applied to products originating in the African, Caribbean and Pacific States and imported directly into the overseas department of Réunion.

(°) The import levy on rice entering the overseas department of Réunion is specified in Article 11 (3) of Regulation (EC) No 3072/95.

(°) The duty on imports of rice not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Council Regulation (EEC) No 3491/90 (OJ L 337, 4. 12. 1990, p. 1) and amended Commission Regulation (EEC) No 862/91 (OJ L 88, 9. 4. 1991, p. 7).

(°) No import duty applies to products originating in the OCT pursuant to Article 101 (1) of amended Council Decision 91/482/EEC (OJ L 263, 19. 9. 1991, p. 1).

(°) For husked rice of the Basmati variety originating in India and Pakistan, a reduction of ECU 250 per tonne applies (Article 4a of amended Regulation (EC) No 1503/96).

(°) Duties fixed in the Common Customs Tariff.

(°) The duty on imports of rice originating in and coming from Egypt is applicable under the arrangements laid down in Council Regulation (EC) No 2184/96 (OJ L 292, 15. 11. 1996, p. 1) and Commission Regulation (EC) No 196/97 (OJ L 31, 1. 2. 1997, p. 53).



## ANNEX II

## Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (ECU/tonne)	( <sup>1</sup> )	247,60	533,00	318,21	533,00	( <sup>1</sup> )
2. Elements of calculation:						
(a) Arag cif price (ECU/tonne)	—	352,61	272,34	308,68	348,36	—
(b) fob price (ECU/tonne)	—	—	—	282,22	321,90	—
(c) Sea freight (ECU/tonne)	—	—	—	26,46	26,46	—
(d) Source	—	USDA	USDA	Operators	Operators	—

(<sup>1</sup>) Duties fixed in the Common Customs Tariff.

**COMMISSION REGULATION (EC) No 2341/97**  
**of 25 November 1997**  
**establishing unit values for the determination of the customs value of certain**  
**perishable goods**

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

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code <sup>(1)</sup>, as last amended by Regulation (EC) No 82/97 <sup>(2)</sup>,

Having regard to 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 <sup>(3)</sup>, as last amended by Regulation (EC) No 1427/97 <sup>(4)</sup>, and in particular Article 173 (1) thereof,

Whereas Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish unit values for the products referred to in the classification in Annex 26 to that Regulation;

Whereas the result of applying the rules and criteria laid down in the abovementioned Articles to the elements

communicated to the Commission in accordance with Article 173 (2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

*Article 1*

The unit values provided for in Article 173 (1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 28 November 1997.

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

Done at Brussels, 25 November 1997.

*For the Commission*  
Martin BANGEMANN  
*Member of the Commission*

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<sup>(1)</sup> OJ L 302, 19. 10. 1992, p. 1.  
<sup>(2)</sup> OJ L 17, 21. 1. 1997, p. 1.  
<sup>(3)</sup> OJ L 253, 11. 10. 1993, p. 1.  
<sup>(4)</sup> OJ L 196, 24. 7. 1997, p. 31.

## ANNEX

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.10	New potatoes 0701 90 51 0701 90 59	a)	141,93	1 974,02	280,48	1 067,76	43 945,36	23 687,27
		b)	846,51	939,05	107,42	275 056,08	316,05	28 636,65
		c)	1 221,97	5 785,08	95,00			
1.30	Onions (other than seed) 0703 10 19	a)	38,50	535,47	76,08	289,64	11 920,64	6 425,42
		b)	229,62	254,73	29,14	74 611,85	85,73	7 767,99
		c)	331,47	1 569,26	25,77			
1.40	Garlic 0703 20 00	a)	83,66	1 163,58	165,33	629,39	25 903,39	13 962,35
		b)	498,97	553,52	63,32	162 130,57	186,30	16 879,74
		c)	720,29	3 409,99	56,00			
1.50	Leeks ex 0703 90 00	a)	35,55	494,44	70,25	267,45	11 007,24	5 933,08
		b)	212,03	235,21	26,91	68 894,83	79,16	7 172,78
		c)	306,07	1 449,02	23,79			
1.60	Cauliflowers 0704 10 10 0704 10 05 0704 10 80	a)	75,84	1 054,81	149,87	570,56	23 482,11	12 657,24
		b)	452,33	501,78	57,40	146 975,64	168,88	15 301,93
		c)	652,96	3 091,25	50,76			
1.70	Brussels sprouts 0704 20 00	a)	91,88	1 277,90	181,57	691,23	28 448,53	15 334,22
		b)	548,00	607,91	69,54	178 060,68	204,60	18 538,26
		c)	791,06	3 745,04	61,50			
1.80	White cabbages and red cabbages 0704 90 10	a)	30,55	424,90	60,37	229,83	9 459,10	5 098,61
		b)	182,21	202,13	23,12	59 204,90	68,03	6 163,95
		c)	263,03	1 245,22	20,45			
1.90	Sprouting broccoli or calabrese ( <i>Brassica oleracea</i> L. <i>convar. botrytis</i> (L.) <i>Alef</i> var. <i>italica</i> Plenck) ex 0704 90 90	a)	105,95	1 473,59	209,38	797,08	32 804,98	17 682,42
		b)	631,92	701,00	80,19	205 327,92	235,93	21 377,11
		c)	912,20	4 318,53	70,92			
1.100	Chinese cabbage ex 0704 90 90	a)	49,40	687,07	97,62	371,64	15 295,57	8 244,56
		b)	294,64	326,85	37,39	95 735,72	110,01	9 967,24
		c)	425,32	2 013,55	33,06			
1.110	Cabbage lettuce (head lettuce) 0705 11 10 0705 11 05 0705 11 80	a)	152,67	2 123,40	301,70	1 148,56	47 270,75	25 479,71
		b)	910,57	1 010,11	115,55	295 869,88	339,97	30 803,62
		c)	1 314,44	6 222,84	102,19			
1.120	Endives ex 0705 29 00	a)	21,82	303,48	43,12	164,16	6 756,06	3 641,63
		b)	130,14	144,37	16,52	42 286,51	48,59	4 402,53
		c)	187,86	889,39	14,60			
1.130	Carrots ex 0706 10 00	a)	37,45	520,87	74,01	281,74	11 595,53	6 250,18
		b)	223,36	247,78	28,35	72 576,98	83,39	7 556,14
		c)	322,43	1 526,47	25,07			
1.140	Radishes ex 0706 90 90	a)	91,55	1 273,31	180,92	688,75	28 346,35	15 279,15
		b)	546,03	605,72	69,29	177 421,15	203,87	18 471,68
		c)	788,22	3 731,59	61,28			
1.160	Peas ( <i>Pisum sativum</i> ) 0708 10 90 0708 10 20 0708 10 95	a)	596,58	8 297,47	1 178,96	4 488,17	184 717,28	99 565,62
		b)	3 558,17	3 947,16	451,54	1 156 154,14	1 328,48	120 369,56
		c)	5 136,36	24 316,66	399,31			

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.170	Beans:							
1.170.1	Beans ( <i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	107,34 640,21 924,16	1 492,93 710,19 4 375,19	212,12 81,24 71,85	807,54 208 021,70	33 235,36 239,03	17 914,40 21 657,56
1.170.2	Beans ( <i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus Savi</i> ) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	81,37 485,31 700,57	1 131,73 538,37 3 316,65	160,80 61,59 54,46	612,16 157 692,62	25 194,35 181,20	13 580,16 16 417,70
1.180	Broad beans ex 0708 90 00	a) b) c)	92,83 553,66 799,24	1 291,12 614,19 3 783,76	183,45 70,26 62,13	698,37 179 901,76	28 742,67 206,72	15 492,77 18 729,94
1.190	Globe artichokes 0709 10 30	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
1.200	Asparagus:							
1.200.1	— green ex 0709 20 00	a) b) c)	407,73 2 431,82 3 510,42	5 670,87 2 697,67 16 619,12	805,75 308,60 272,91	3 067,42 790 168,51	126 244,22 907,95	68 047,69 82 266,05
1.200.2	— other ex 0709 20 00	a) b) c)	312,21 1 862,11 2 688,03	4 342,34 2 065,68 12 725,71	616,99 236,31 208,97	2 348,81 605 053,61	96 668,65 695,24	52 105,98 62 993,36
1.210	Aubergines (eggplants) 0709 30 00	a) b) c)	58,72 350,22 505,56	816,70 388,51 2 393,43	116,04 44,44 39,30	441,76 113 797,60	18 181,30 130,76	9 800,02 11 847,70
1.220	Ribbed celery ( <i>Apium graveolens</i> L, var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	a) b) c)	60,11 358,51 517,53	836,03 397,71 2 450,09	118,79 45,50 40,23	452,22 116 491,38	18 611,68 133,85	10 032,00 12 128,15
1.230	Chantarelles 0709 51 30	a) b) c)	1 003,60 5 985,75 8 640,67	13 958,47 6 640,13 40 906,84	1 983,30 759,61 671,74	7 550,24 1 944 946,69	310 741,66 2 234,85	167 494,82 202 492,36
1.240	Sweet peppers 0709 60 10	a) b) c)	79,53 474,34 684,73	1 106,14 526,20 3 241,65	157,17 60,19 53,23	598,32 154 126,75	24 624,64 177,10	13 273,08 16 046,45
1.250	Fennel 0709 90 50	a) b) c)	73,55 438,67 633,24	1 022,96 486,63 2 997,91	145,35 55,67 49,23	553,33 142 537,69	22 773,07 163,78	12 275,05 14 839,89
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	a) b) c)	75,28 448,99 648,14	1 047,02 498,08 3 068,42	148,77 56,98 50,39	566,34 145 890,38	23 308,72 167,64	12 563,78 15 188,94
2.10	Chestnuts ( <i>Castanea</i> spp.), fresh ex 0802 40 00	a) b) c)	191,19 1 140,31 1 646,08	2 659,15 1 264,97 7 792,92	377,83 144,71 127,97	1 438,35 370 520,48	59 197,59 425,75	31 908,46 38 575,64
2.30	Pineapples, fresh ex 0804 30 00	a) b) c)	51,11 304,83 440,04	710,86 338,16 2 083,25	101,00 38,68 34,21	384,51 99 049,65	15 825,04 113,81	8 529,95 10 312,26

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.40	Avocados, fresh ex 0804 40 90 ex 0804 40 20 ex 0804 40 95	a) b) c)	121,28 723,35 1 044,18	1 686,81 802,43 4 943,38	239,67 91,79 81,18	912,41 235 037,00	37 551,56 270,07	20 240,90 24 470,18
2.50	Guavas and mangoes, fresh ex 0804 50 00	a) b) c)	93,99 560,58 809,22	1 307,25 621,87 3 831,04	185,74 71,14 62,91	707,10 182 149,80	29 101,84 209,30	15 686,37 18 963,99
2.60	Sweet oranges, fresh:							
2.60.1	— Sanguines and semi-sanguines 0805 10 42 0805 10 51 0805 10 37	a) b) c)	23,94 142,78 206,12	332,97 158,39 975,80	47,31 18,12 16,02	180,10 46 395,00	7 412,47 53,31	3 995,44 4 830,28
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamou- tis, ovalis, trovita and hamlins 0805 10 44 0805 10 55 0805 10 38	a) b) c)	30,50 181,91 262,60	424,21 201,80 1 243,18	60,27 23,08 20,41	229,46 59 108,08	9 443,62 67,92	5 090,27 6 153,86
2.60.3	— Others 0805 10 39 0805 10 46 0805 10 59	a) b) c)	36,37 216,92 313,13	505,85 240,64 1 482,44	71,87 27,53 24,34	273,62 70 483,97	11 261,13 80,99	6 069,93 7 338,23
2.70	Mandarins (including tangerines and satsumas), fresh; clementines, wilkings and similar citrus hybrids, fresh:							
2.70.1	— Clementines 0805 20 21	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.70.2	— Monreales and satsumas 0805 20 23	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.70.3	— Mandarines and wilkings 0805 20 25	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.70.4	— Tangerines and others ex 0805 20 27 ex 0805 20 29	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.85	Limes ( <i>Citrus aurantifolia</i> ), fresh ex 0805 30 90	a) b) c)	99,20 591,66 854,08	1 379,71 656,34 4 043,40	196,04 75,08 66,40	746,30 192 246,62	30 715,00 220,90	16 555,88 20 015,19

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.90	Grapefruit, fresh:							
2.90.1	— white ex 0805 40 90 ex 0805 40 20 ex 0805 40 95	a) b) c)	47,84 285,33 411,89	665,38 316,52 1 949,96	94,54 36,21 32,02	359,91 92 712,48	14 812,56 106,53	7 984,21 9 652,49
2.90.2	— pink ex 0805 40 90 ex 0805 40 20 ex 0805 40 95	a) b) c)	51,25 305,67 441,25	712,81 339,09 2 088,96	101,28 38,79 34,30	385,56 99 320,96	15 868,38 114,13	8 553,32 10 340,51
2.100	Table grapes 0806 10 21 0806 10 29 0806 10 61 0806 10 30 0806 10 69	a) b) c)	213,10 1 270,99 1 834,72	2 963,88 1 409,94 8 685,98	421,13 161,29 142,63	1 603,19 412 981,41	65 981,51 474,54	35 565,11 42 996,33
2.110	Water melons 0807 11 00	a) b) c)	31,08 185,37 267,59	432,27 205,63 1 266,82	61,42 23,52 20,80	233,82 60 232,11	9 623,21 69,21	5 187,07 6 270,89
2.120	Melons (other than water melons):							
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onteniente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	a) b) c)	51,74 308,59 445,46	719,62 342,33 2 108,93	102,25 39,16 34,63	389,25 100 270,57	16 020,10 115,22	8 635,10 10 439,37
2.120.2	— other ex 0807 19 00	a) b) c)	108,04 644,38 930,19	1 502,66 714,83 4 403,72	213,51 81,77 72,31	812,80 209 378,28	33 452,10 240,59	18 031,23 21 798,80
2.140	Pears							
2.140.1	Pears — nashi ( <i>Pyrus pyrifolia</i> ) ex 0808 20 41	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.140.2	Other ex 0808 20 41	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.150	Apricots 0809 10 10 0809 10 50	a) b) c)	321,45 1 917,22 2 767,58	4 470,86 2 126,81 13 102,33	635,25 243,30 215,16	2 418,32 622 960,46	99 529,60 715,81	53 648,08 64 857,68
2.160	Cherries 0809 20 11 0809 20 19 0809 20 21 0809 20 29 0809 20 71 0809 20 79	a) b) c)	146,66 874,72 1 262,70	2 039,81 970,35 5 977,88	289,83 111,00 98,16	1 103,35 284 222,68	45 409,90 326,59	24 476,67 29 591,00
2.170	Peaches 0809 30 19 0809 30 59	a) b) c)	241,67 1 441,39 2 080,70	3 361,24 1 598,96 9 850,49	477,59 182,92 161,76	1 818,12 468 349,21	74 827,56 538,16	40 333,27 48 760,79
2.180	Nectarines ex 0809 30 11 ex 0809 30 51	a) b) c)	283,64 1 691,71 2 442,05	3 944,98 1 876,65 11 561,19	560,53 214,68 189,85	2 133,87 549 685,81	87 822,60 631,62	47 337,81 57 228,91

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.190	Plums 0809 40 10 0809 40 40	a)	186,47	2 593,50	368,50	1 402,84	57 736,15	31 120,72
		b)	1 112,16	1 233,74	141,14	361 373,27	415,24	37 623,31
		c)	1 605,45	7 600,54	124,81			
2.200	Strawberries 0810 10 10 0810 10 05 0810 10 80	a)	183,50	2 552,19	362,63	1 380,50	56 816,55	30 625,05
		b)	1 094,45	1 214,09	138,89	355 617,49	408,62	37 024,06
		c)	1 579,88	7 479,48	122,82			
2.205	Raspberries 0810 20 10	a)	1 173,21	16 317,47	2 318,49	8 826,25	363 257,49	195 801,71
		b)	6 997,35	7 762,32	887,98	2 273 645,78	2 612,54	236 713,89
		c)	10 100,96	47 820,16	785,26			
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	a)	1 115,83	15 519,41	2 205,09	8 394,57	345 491,10	186 225,33
		b)	6 655,12	7 382,68	844,55	2 162 445,07	2 484,76	225 136,56
		c)	9 606,94	45 481,34	746,86			
2.220	Kiwi fruit ( <i>Actinidia chinensis Planch.</i> ) 0810 50 10 0810 50 20 0810 50 30	a)	95,22	1 324,36	188,17	716,36	29 482,68	15 891,65
		b)	567,92	630,01	72,07	184 533,50	212,04	19 212,16
		c)	819,81	3 881,18	63,73			
2.230	Pomegranates ex 0810 90 85	a)	73,62	1 023,94	145,49	553,86	22 794,74	12 286,74
		b)	439,09	487,09	55,72	142 673,35	163,94	14 854,01
		c)	633,84	3 000,76	49,28			
2.240	Khakis (including sharon fruit) ex 0810 90 85	a)	145,17	2 019,08	286,88	1 092,14	44 948,55	24 228,00
		b)	865,83	960,49	109,88	281 335,10	323,27	29 290,37
		c)	1 249,87	5 917,14	97,17			
2.250	Lychees ex 0810 90 30	a)	642,57	8 937,12	1 269,84	4 834,16	198 957,02	107 241,08
		b)	3 832,47	4 251,44	486,35	1 245 281,38	1 430,89	129 648,78
		c)	5 532,32	26 191,22	430,09			

COMMISSION REGULATION (EC) No 2342/97  
of 26 November 1997

establishing the supply balance for the Azores and Madeira with products from  
the eggs and poultrymeat sectors and amending Regulation (EEC) No 1726/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 introducing specific measures for the Azores and Madeira concerning certain agricultural products<sup>(1)</sup>, as last amended by Regulation (EC) No 2348/96<sup>(2)</sup>, and in particular Article 10 thereof,

Whereas Commission Regulation (EEC) No 1726/92<sup>(3)</sup>, as last amended by Regulation (EC) No 1262/97<sup>(4)</sup>, fixes for the period 1 July 1997 to 31 December 1997 the quantities of breeding material originating in the Community which benefit from an aid with a view to developing the potential for production in the Azores and Madeira; whereas these quantities should be determined for the egg and poultrymeat sectors for the period 1 July 1997 to 30 June 1998, taking account of local production and traditional trade flows and ensuring that the proportion of products supplied from the Community is preserved;

Whereas, pending a communication from the competent authorities updating the requirements of Madeira, and so as not to interrupt application of the specific supply arrangements, the balance was drawn up for the period 1 July to 31 December 1997 by Regulation (EC) No 1262/97; whereas as a result of the presentation by the Portuguese authorities of information on the needs of Madeira, it was possible to establish the balance for the entire 1997/98 period; whereas the Annex to Regulation (EC) No 1726/92 should thus be replaced by the Annex to this Regulation;

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

Done at Brussels, 26 November 1997.

Whereas the supply arrangements are laid down for the period 1 July to 30 June; whereas the definitive supply balance for the 1997/98 period should therefore apply from the start of that year, i.e. 1 July 1997;

Whereas the fact that the Community aid is fixed in the light of the present situation on the market for the products in question and in particular of the prices for such products in the European part of the Community and on the world market results in the aid for the supply of egg and poultrymeat to the Azores and Madeira being fixed at the amounts given in the Annex;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The Annex to Regulation (EEC) No 1726/92 is hereby replaced by the Annex to this Regulation.

*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 with effect from 1 July 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 173, 27. 6. 1992, p. 1.

<sup>(2)</sup> OJ L 320, 11. 12. 1996, p. 1.

<sup>(3)</sup> OJ L 179, 1. 7. 1992, p. 99.

<sup>(4)</sup> OJ L 174, 2. 7. 1997, p. 17.



## ANNEX

## PART 1

**Supply in the Azores of breeding material originating in the Community for the period 1 July 1997 to 30 June 1998**

(ECU/100 units)

CN code	Description of the goods	Quantity	Aid
ex 0105 11	Parent or grandparent stock chicks (!)	20 000	13
ex 0407 00 19	Hatching eggs for the production of parent or grandparent stock chicks (!)	100 000	3,60

(!) In accordance with the definition provided for in Article 1 of Council Regulation (EEC) No 2782/75 (OJ L 282, 1. 11. 1975, p. 100).

## PART 2

**Supply in Madeira of breeding material originating in the Community for the period 1 July 1997 to 30 June 1998**

(ECU/100 units)

CN code	Description of the goods	Quantity	Aid
ex 0105 11	Parent or grandparent stock chicks (!)	360 000	5
ex 0407 00 19	Hatching eggs for the production of parent or grandparent stock chicks (!)	160 000	3,60

(!) In accordance with the definition provided for in Article 1 of Regulation (EEC) No 2782/75.

**COMMISSION REGULATION (EC) No 2343/97**  
**of 26 November 1997**  
**fixing the export refunds on olive oil**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats<sup>(1)</sup>, as last amended by Regulation (EC) No 1581/96<sup>(2)</sup>, and in particular Article 3 (3) thereof,

Whereas Article 3 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries;

Whereas the detailed rules for fixing and granting export refunds on olive oil are contained in Commission Regulation (EEC) No 616/72<sup>(3)</sup>, as last amended by Regulation (EEC) No 2962/77<sup>(4)</sup>;

Whereas Article 3 (3) of Regulation No 136/66/EEC provides that the refund must be the same for the whole Community;

Whereas, in accordance with Article 3 (4) of Regulation No 136/66/EEC, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market; whereas, however, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period; whereas the amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted, where appropriate, to take account of export costs for the products on the world market;

Whereas, in accordance with Article 3 (3) third indent, point (b) of Regulation No 136/66/EEC, it may be decided that the refund shall be fixed by tender; whereas the tendering procedure should cover the amount of the

refund and may be limited to certain countries of destination, quantities, qualities and presentations;

Whereas the second indent of Article 3 (3) of Regulation No 136/66/EEC provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary;

Whereas the refund must be fixed at least once every month; whereas it may, if necessary, be altered in the intervening period;

Whereas it follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92<sup>(5)</sup>, as last amended by Regulation (EC) No 150/95<sup>(6)</sup>, 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<sup>(7)</sup>, as last amended by Regulation (EC) No 1482/96<sup>(8)</sup>;

Whereas the Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1 (2) (c) of Regulation No 136/66/EEC shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 27 November 1997.

<sup>(1)</sup> OJ 172, 30. 9. 1966, p. 3025/66.

<sup>(2)</sup> OJ L 206, 16. 8. 1996, p. 11.

<sup>(3)</sup> OJ L 78, 31. 3. 1972, p. 1.

<sup>(4)</sup> OJ L 348, 30. 12. 1977, p. 53.

<sup>(5)</sup> OJ L 387, 31. 12. 1992, p. 1.

<sup>(6)</sup> OJ L 22, 31. 1. 1995, p. 1.

<sup>(7)</sup> OJ L 108, 1. 5. 1993, p. 106.

<sup>(8)</sup> OJ L 188, 27. 7. 1996, p. 22.

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

Done at Brussels, 26 November 1997.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

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ANNEX

to the Commission Regulation of 26 November 1997 fixing the export refunds on olive oil  
(*ECU/100 kg*)

Product code	Amount of refund (1)
1509 10 90 9100	10,00
1509 10 90 9900	0,00
1509 90 00 9100	8,50
1509 90 00 9900	0,00
1510 00 90 9100	0,00
1510 00 90 9900	0,00

(1) For destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87 (OJ L 351, 14. 12. 1987, p 1), as well as for exports to third countries.

*NB:* The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

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## COMMISSION REGULATION (EC) No 2344/97

of 26 November 1997

**fixing the maximum export refunds for olive oil for the 2nd partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 1978/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats <sup>(1)</sup>, as last amended by Regulation (EC) No 1581/96 <sup>(2)</sup>, and in particular Article 3 thereof,

Whereas Commission Regulation (EC) No 1978/97 <sup>(3)</sup> issued a standing invitation to tender with a view to determining the export refunds on olive oil;

Whereas Article 6 of Regulation (EC) No 1978/97 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current situation and foreseeable developments on the Community and world olive-oil markets and on the basis of the tenders received; whereas contracts are awarded to any tenderer who submits a tender at the level of the maximum refund or at a lower level;

Whereas, for the purposes of applying the abovementioned provisions, the maximum export refunds should be set at the levels specified in the Annex;

Whereas the Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

The maximum export refunds for olive oil for the 2nd partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 1978/97 are hereby fixed in the Annex, on the basis of the tenders submitted by 23 November 1997.

*Article 2*

This Regulation shall enter into force on 27 November 1997.

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

Done at Brussels, 26 November 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ 172, 30. 9. 1966, p. 3025/66.

<sup>(2)</sup> OJ L 206, 16. 8. 1996, p. 11.

<sup>(3)</sup> OJ L 278, 11. 10. 1997, p. 7.

## ANNEX

to the Commission Regulation of 26 November 1997 fixing the maximum export refunds for olive oil for the second partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 1978/97

*(ECU/100 kg)*

Product code	Amount of refund
1509 10 90 9100	15,90
1509 10 90 9900	—
1509 90 00 9100	14,50
1509 90 00 9900	—
1510 00 90 9100	—
1510 00 90 9900	—

*NB:* The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

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## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 7 November 1997

accepting undertakings in connection with the anti-dumping proceeding concerning imports of flat pallets of wood originating in the Republic of Poland

(97/797/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community<sup>(1)</sup>, as amended by Regulation (EC) No 2331/96<sup>(2)</sup>, and in particular Article 8 (1) thereof,

After consulting the Advisory Committee,

Whereas:

duty applicable to co-operating companies not included in the sample of exporters investigated and can have undertakings accepted with regard to exports of EUR-pallets.

- (3) By Commission Regulation (EC) No 1633/97<sup>(3)</sup>, in application of the abovementioned new provision, the provisional Regulation was further amended by including a number of genuine new exporters in the list of companies receiving the weighted average duty and by accepting undertakings from some of such new exporters.

## A. PREVIOUS PROCEDURE

- (1) The Commission by Regulation (EC) No 1023/97<sup>(3)</sup> imposed provisional anti-dumping duties on certain imports of flat pallets of wood falling within CN code ex 4415 20 20 originating in the Republic of Poland and accepted undertakings offered from certain producers. These undertakings concerned only one pallet type, i.e. the EUR pallet.
- (2) By Commission Regulation (EC) No 1632/97<sup>(4)</sup>, the above provisional Regulation was amended adding a provision whereby genuine new Polish exporters can be attributed the weighted average

## B. DEFINITIVE DETERMINATION

- (4) The Commission continued to seek and verify all information that it deemed necessary for the purpose of its definitive findings. In the course of this investigation, it was established that definitive anti-dumping measures in the form of an *ad valorem* duty and, where applicable, price undertakings, should be taken in order to eliminate the injurious effects of dumping. The findings and conclusions on all aspects of the investigation are set out in the Commission's proposal to the Council to impose a definitive anti-dumping duty on imports of wooden pallets originating in Poland<sup>(5)</sup>.

<sup>(1)</sup> OJ L 56, 6. 3. 1996, p. 1.

<sup>(2)</sup> OJ L 317, 6. 12. 1996, p. 1.

<sup>(3)</sup> OJ L 150, 7. 6. 1997, p. 4.

<sup>(4)</sup> OJ L 225, 15. 8. 1997, p. 11.

<sup>(5)</sup> OJ L 225, 15. 8. 1997, p. 13.

<sup>(6)</sup> Doc. COM(97) 569. The proposal was subsequently adopted by the Council as Council Regulation (EC) No 2334/97 (see p. 1 of this Official Journal).

## C. NEW EXPORTERS' REQUEST

- (5) Following the adoption of Regulation (EC) No 1633/97, eight further new Polish exporting producers have applied not to be treated differently from the companies which co-operated in the proceeding but were not included in the sample and have offered undertakings with regard to the EUR-pallet. They have provided, on request, evidence showing that they are genuine new exporters, which is considered sufficient to accept the undertakings offered by them with regard to the EUR-pallet.
- (6) Two Polish exporters included in the list of companies receiving the weighted average duty have now offered undertakings with regard to the EUR-pallet which are considered acceptable,

HAS ADOPTED THIS DECISION:

*Article 1*

The undertakings offered with regard to the EUR-pallet by:

- MACED Sklad Palet, Jadwiga Macionga, PL-77-200 Miastko

- ENKEL Spółka Cywilna, PL-24-100 Puławy  
 — Produkcja Stolarska Posrednictwo Export-Import, W.i.T. HENSOLDT, PL-84-300 Lebork  
 — Przedsiębiorstwo Produkcyjno Usługowo Handlowe 'DREWPOL', PL-98277 Braszewice  
 — PTN Kruklanki Sp. Z.o.o., PL-11612 Kruklanki  
 — WEDAM Spółka Cywilna, PL-83-322 Stezyca  
 — 'AVEN' Sp. Z.o.o., PL-66-470 Kostrzyn  
 — Import-Export Jan Sibinski, PL-63-524 Czajkow  
 — 'Empol' s.c., PL-62-812 Jastrzebniki 37  
 — P.P.H.U. 'Alk', PL-73-240 Bierzwnik,

in connection with the anti-dumping proceeding concerning imports of flat pallets of wood originating in Poland and falling within CN code ex 4415 20 20 10 are hereby accepted.

*Article 2*

This acceptance shall take effect on the date of entry into force of Regulation (EC) No 2334/97.

Done at Brussels, 7 November 1997.

*For the Commission*

Leon BRITTAN

*Vice-President*

## COMMISSION DECISION

of 10 November 1997

terminating the anti-dumping proceeding concerning imports of certain types of electronic microcircuits known as DRAMS (dynamic random access memories) originating in Japan

(97/798/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community<sup>(1)</sup>, as amended by Regulation (EC) No 2331/96<sup>(2)</sup>, and in particular Article 9 (2) thereof,

After consulting the Advisory Committee,

Whereas:

## A. PREVIOUS PROCEDURE

- (1) By Regulation (EEC) No 165/90<sup>(3)</sup>, the Commission accepted undertakings from all known Japanese DRAM producers which exported this product to the Community. The Council, by Regulation (EEC) No 2112/90<sup>(4)</sup>, imposed a residual duty on imports of DRAMS originating in Japan in order to bring non-cooperating parties within the scope of the measures against the dumping of DRAMS and to underpin the undertakings.
- (2) In June 1995, the Commission decided to suspend the above anti-dumping measures for a period of nine months<sup>(5)</sup>. In March 1996 the suspension was extended by the Council for a further period of 12 months<sup>(6)</sup>.

## B. REVIEW INVESTIGATION

- (3) In July 1995, the Commission initiated on its own initiative an interim review of the measures concerning imports of DRAMS originating in Japan, (together with a review of the similar measures relating to the Republic of Korea), pursuant to Article

11 (3) of Council Regulation (EC) No 384/96 (hereinafter referred to as the 'basic Regulation'). Since the review with regard to Japan was initiated at the end of the period of application of the measures, the review also covered the circumstances of an expiry review, in accordance with Article 11 (7) of the basic Regulation<sup>(7)</sup>.

## C. PRODUCT UNDER CONSIDERATION

- (4) The product concerned by this investigation is dynamic random access memories (DRAMs), whether in processed wafer form or dice form, assembled or further processed onto modules, manufactured using variations of Metal Oxide Semiconductor (MOS) process technology, including CMOS and BiCMOS etc., and including, without limitation, product variations using DRAM technology such as VRAMs, Pseudo SRAMs, S-DRAMs (synchronous DRAMs), MDRAMs (multibank DRAMs), R-DRAMs (RAMBUS-DRAMs), of all densities (including future densities), irrespective of access speed, configuration, frame or package, etc.
- (5) The product is currently classifiable within the following CN codes: 8542 13 11, 8542 13 13, 8542 13 15, 8542 13 17, 8542 19 01, 8542 19 05 (for finished DRAMs), 8542 13 01 (for DRAM wafers), 8542 13 05 (for DRAM dice or chips), 8548 90 00, 8473 30 10 and 8473 50 10 (for DRAM modules, DRAM boards and DRAM cards).

## D. DEFINITION OF THE COMMUNITY INDUSTRY

- (6) The Community industry concerned by this review consists of Motorola Ltd (United Kingdom); Siemens (Germany) and Texas Instruments Italia (Italy). All of them cooperated in this investigation and are members of the European Electronic Component Manufacturers' Association (EECA), which lodged the original complaint.

<sup>(1)</sup> OJ L 56, 6. 3. 1996, p. 1.

<sup>(2)</sup> OJ L 317, 6. 12. 1996, p. 1.

<sup>(3)</sup> OJ L 20, 25. 1. 1990, p. 5.

<sup>(4)</sup> OJ L 193, 25. 7. 1990, p. 1.

<sup>(5)</sup> Commission Decision 95/197/EC (OJ L 126, 9. 6. 1995, p. 58).

<sup>(6)</sup> Council Regulation (EC) No 399/96 (OJ L 55, 6. 3. 1996, p. 2).

<sup>(7)</sup> OJ C 181, 15. 7. 1995, p. 13.



- (7) The collective output of the abovementioned Community industry constitutes a major proportion of the total Community production of DRAMs in accordance with Article 4 (1) of the basic Regulation.

#### E. WITHDRAWAL OF SUPPORT FOR THE PROCEEDING

- (8) In July 1997, the Community industry withdrew its support for the continuation of the existing anti-dumping measures, (both with respect to imports from Japan and from Korea). The complainant considered it appropriate to take this step in view of the envisaged negotiation of voluntary industry-to-industry agreements between the complainant Community industry and the Japanese and Korean associations of DRAM producers, the aim of which is to prevent the future occurrence of injurious dumping and to ensure that, should any anti-dumping investigation be initiated, it may be carried out expeditiously. The Community industry has committed itself to notify the agreements, if any, to the Commission under the competition rules.

#### F. TERMINATION OF THE PROCEEDING

- (9) In accordance with Article 9 (1) of the basic Regulation, when the Community industry withdraws its support for the continuation of anti-dumping measures, the proceeding must be terminated, unless such termination would not be in the Community interest. The investigation has not brought to light any considerations of Community interest which would support the continuation of the proceeding in these circumstances.
- (10) In view of the above, the Commission informed the interested parties of its intention to terminate the proceeding following the withdrawal of support. No further arguments were raised concerning the Community interest aspects.
- (11) However, several Community users of DRAMs have requested that the proceeding be terminated retroactively as from 10 March 1997, i.e. the date on which the anti-dumping duty was reinstated after expiry of the suspension of the measures. As a consequence, anti-dumping duties paid after this date should be reimbursed.
- (12) The users have argued that, following the reinstatement of the anti-dumping duties in March 1997, they could not always avoid paying anti-dumping duty by purchasing DRAMs through sales channels covered by the undertakings. These parties have further claimed that, due to the reference price system of the price undertakings, (which were likewise reinstated in March 1997), they had to pay higher prices for DRAMs purchased in the

Community than competitors in the rest of the world. The users concerned have claimed that these circumstances have had a negative impact on their competitiveness.

- (13) The users also referred to the disclosure of the preliminary findings of the Commission's services. They noted that it had been envisaged by the Commission's services that, as regards Japan, a lower residual duty should be imposed with retroactive effect from 10 March 1997, the date of the reinstatement of the anti-dumping measures. Had the investigation been concluded in this way, the difference between the initial and the final duty rate would have been refunded to importers which would have paid anti-dumping duty. The users have argued that, if retroactivity was considered justified on the hypothesis that the measures would be reimposed, then retroactivity would, *a fortiori*, be justified where the investigation was being concluded by the termination of the proceeding.
- (14) With regard to the abovementioned request, the Commission considers that, as the basic Regulation does not provide for the retroactive termination of proceedings, this request could only be accepted if justified by general principles of Community law. However, none of these principles apply in the current case.
- (15) In one anti-dumping proceeding, the review was terminated retroactively on the grounds that the anti-dumping measures had been prolonged by more than three years due to the long duration of the review investigation<sup>(1)</sup>. However, the facts of this case are not comparable, since the anti-dumping measures in the current proceeding were suspended between June 1995 and March 1997, i.e. for all but a few months of the period by which the measures were prolonged by the review. The Community user industry, which had requested and has benefited from this suspension, thus cannot be considered to have been unduly burdened by this review investigation.
- (16) As regards the argument raised by the users in respect of imports through sales channels subject to the residual duties, such difficulties are inherent to the structure of the measures, and cannot be considered as justifying a retroactive termination.
- (17) Moreover, it cannot be accepted that the users were unduly burdened if, as claimed, they had to purchase Japanese and Korean DRAMs at prices above the prices outside the Community, due to the reference price system. The reference prices, which were continuously amended to reflect changes in normal value, ensured only that imports

(1) Council Regulation (EEC) No 2655/93 (OJ L 244, 30. 9. 1993, p. 1).

covered by the undertakings were not made at dumped prices, and sales in third markets at prices below the reference prices can therefore be assumed to have been dumped. The fact that dumping in third countries has enabled users in those countries to enjoy a competitive advantage over users in the Community is not considered a relevant argument for the retroactive repeal of the residual duties.

- (18) Furthermore, it is considered that the users' request cannot be based on the fact that the Commission had, in disclosing its provisional findings in the investigation, indicated that, in the event of a final determination that the likelihood of a recurrence of dumping and injury justified the reimposition of measures, the amended anti-dumping duty for Japan could be imposed retroactively. The provisional character of these indications was understood by all interested parties, so that legitimate expectations could not arise on these grounds.
- (19) In addition, retroactive termination, giving rise to the reimbursement of anti-dumping duties paid as from 10 March 1997, would discriminate against those exporters which adhered to the reference prices set under the undertakings, and against those importers who have purchased at these prices. This would be the case in particular, if, as the users have submitted, the prices in the Community had been higher than the world market prices, due to the reference price system.
- (20) Finally, it should be noted that any anti-dumping duty paid may always be reimbursed through a request for a refund, pursuant to Article 11 (8) of the basic Regulation.
- (21) In the light of the above, the request for the retroactive termination of the proceeding is rejected.

- (22) After having considered all the various interests involved taken as a whole, it was concluded that the proceeding should be terminated. The anti-dumping duties on DRAMs from Japan will consequently expire. The termination of the proceeding also releases the Japanese exporters from the undertakings accepted by Regulation (EEC) No 165/90 and Commission Decision 92/494/EEC<sup>(1)</sup>.

HAS ADOPTED THIS DECISION:

*Article 1*

The anti-dumping proceeding concerning imports of dynamic random access memories (DRAMs), falling within CN codes

- 8542 13 11, 8542 13 13, 8542 13 15, 8542 13 17, 8542 19 01, 8542 19 05 (for finished DRAMs), 8542 13 01 (for DRAM wafers),  
— 8542 13 05 (for DRAM dice or chips),  
— 8548 90 00, 8473 30 10 and 8473 50 10 (for DRAM modules, DRAM boards and DRAM cards),  
originating in Japan is hereby terminated.

*Article 2*

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

Done at Brussels, 10 November 1997.

*For the Commission*

Leon BRITTAN

*Vice-President*

<sup>(1)</sup> OJ L 299, 15. 10. 1992, p. 43.

## COMMISSION DECISION

of 14 November 1997

recognizing that the production of certain *vins de pays* and quality wines psr in France, by reason of their qualitative characteristics, is far from able to satisfy demand

(Only the French text is authentic)

(97/799/EC)

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

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine <sup>(1)</sup>, as last amended by Regulation (EC) No 1417/97 <sup>(2)</sup>, and in particular Article 6 (4) thereof,

Whereas, in accordance with Article 6 (1) of Regulation (EEC) No 822/87, all new planting of vines is prohibited until 31 August 1998; whereas, however, there is provision for Member States to grant authorization for new vine planting for the 1996/97 and 1997/98 wine years for areas intended for the production of:

- quality wines produced in specified regions (quality wines psr),
- and
- table wines designated as one of the following: *Landwein, vin de pays, indicazione geografica tipica, vino de la tierra, vinho regional*, regional wine, etc,

for which the Commission has recognized that production, by reason of their qualitative characteristics, is far from able to satisfy demand;

Whereas requests for the application of that provision for certain *vins de pays* and certain quality wines psr were submitted by the French Government on 10 September and 1 October 1997;

Whereas examination of the requests has revealed that the *vins de pays* and quality wines psr in question meet the

requisite conditions; whereas the limit of 2 584 ha laid down in Article 6 (1) of Regulation (EEC) No 822/87 has not been exceeded;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS DECISION:

*Article 1*

The *vins de pays* and quality wines psr listed in the Annex meet the requirements of the second subparagraph of Article 6 (1) of Regulation (EEC) No 822/87, provided that the increase in surface area given in that Annex is complied with.

*Article 2*

This Decision is addressed to the French Republic.

Done at Brussels, 14 November 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 84, 27. 3. 1987, p. 1.

<sup>(2)</sup> OJ L 196, 24. 7. 1997, p. 10.

## ANNEX

<i>Vin de pays</i>	New plantings (ha)
Jardin de la France	18
Bouches-du-Rhône	29
Var	18
Vaucluse	48
Alpes-de-Haute-Provence	3
Terroirs Landais	7
Agenais	8
Coteaux de l'Ardèche	37
Coteaux des Baronnies	5
Comté de Grignan	7
Comtés Rhodaniens	3
Oc	656
Côtes du Tarn	6
Comté Tolosan	11
Côtes de Gascogne	48
<b>TOTAL VINS DE PAYS</b>	<b>904</b>

Region	Quality wines psr	New plantings (ha)
BURGUNDY	Communes du Mâconnais	11,3021
	of which Rully	1,2935
	of which Maranges	0,0928
	of which Mercurey	0,7504
	of which Montagny	0,4814
	of which Givry	2,0110
	of which Saint-Véran	5,0777
	of which Pouilly (Vinzelles, Fuissé et Loché)	1,5953
	Bourgogne aligoté Bouzeron	1,9105
	Roannais/Forez/Saint-Bris	2,8041
	of which Saint-Bris	0,8216
	of which Côtes-Roannaise	1,4825
	of which Côtes-du-Forez	0,5000
	Beaujolais	4,4784
	Communes Côtes-d'Or	8,1294
	Chablis	57,8915
Régionales du Mâconnais	23,3978	
Régionales de Bourgogne	45,6999	
	<i>Total Burgundy region</i>	<i>155,6136</i>
JURA SAVOIE	Bugey	2,9007
	Jura	5,7384
	Vin de Savoie	10,9683
		<i>Total region</i>

Region	Quality wines psr	New plantings (ha)
VAL DE LOIRE	Liquoreux	13,5163
	Anjou/Saumur	41,8289
	of which Anjou rouge/village/gamay	8,3442
	of which Rosé Anjou/Loire/Cabernet	2,9955
	of which Anjou blanc and Crémant	1,8173
	of which Saumur blanc and Mousseux	3,8370
	of which Saumur rouge and Champigny	24,8349
	Bourgueil	18,1373
	Châteaumeillant	3,6000
	Chinon	24,8040
	Côtes d'Auvergne	5,0400
	Coteaux d'Ancenis	2,8000
	Coteaux du Giennois	2,8800
	Coteaux du Loir + Jasnières	1,6087
	Fiefs Vendéens	2,8450
	Gros-Plant	1,1921
	Haut-Poitou	2,6900
	Menetou-Salon	3,9549
	Montlouis	1,8013
	Muscadet	6,9866
	Pouilly fumé/Pouilly-sur-Loire	14,2950
	Quincy	0,7776
	Reuilly	1,5350
	Sancerre	32,8527
	Saint-Pourçain	4,9024
	Saint-Nicolas-de-Bourgueil	13,3162
	Touraine	2,8021
	Vendômois/Orléanais/Valencay	
	of which Orléanais	1,5473
	Vouvray	6,1563
	<i>Total Val de Loire region</i>	211,8697
SOUTH-WEST	Gironde	683,3400
	of which blancs doux group	8,6317
	of which Saint-Émilion/Pomerol/Fronsac group	35,2460
	of which Côtes group	105,7379
	of which Médoc and Graves group	146,0190
	of which Bordeaux rouge group	380,5125
	of which blancs secs group	7,1931
	Other départements	77,2986
	of which Marcillac	1,9410
	of which Irouléguay	0,2574
	of which Béarn (aire Bellocq)	1,3660
	of which Tursan	3,7610
	of which Brulhois	4,1107
	of which Saint-Mont	0,8917
	of which Jurançon	10,7289
	of which Frontonnais	1,9882
	of which Gaillac	2,3018
	of which Duras	2,7124
	of which Marmandais	5,8164
	of which Bergeracois — reds	29,0549
	of which AOC Bergerac — white	1,9753
	of which Bergeracois — other whites	5,0449
	of which Pécharmant	5,3480
	<i>Total south-west region</i>	760,6385

Region	Quality wines per	New plantings (ha)
LANGUEDOC-ROUSSILLON	Clairette du Languedoc	1,0390
	Côtes de Millau	1,2213
	Fitou	1,3548
	Cabardes	0,7193
	Collioure	2,4439
	Limoux	3,4663
	Faugères	0,7984
	Minervois	15,6976
	Costières de Nîmes	4,6169
	Corbières	34,7188
	Clairette de Bellegarde	1,4239
	Malepère	0,6384
	Saint Chinian	4,9848
	Côtes du Roussillon	33,9164
	Coteaux du Languedoc	34,4577
	<i>Total Languedoc-Roussillon</i>	<i>141,4975</i>
ALSACE AND EAST	Lorraine	2,8772
	of which Moselle	2,8772
	Alsace	70,2719
	<i>Total Alsace and east region</i>	<i>73,1491</i>
NATURAL SWEET WINE	Banyuls	0,3135
	Maury	1,5769
	Muscat de Beaumes-de-Venise	0,8477
	Muscat de Frontignan	1,8235
	Muscat de Lunel	1,2173
	Muscat de Rivesaltes	8,6846
	Muscat de Saint-Jean-de-Minervois	0,3597
	Rivesaltes	1,8756
	<i>Total natural sweet wine</i>	<i>16,6987</i>
VALLÉE DU RHÔNE	Châteauneuf-du-Pape	1,6735
	Condrieu	0,9450
	Cornas	1,0621
	Côte-Rôtie	1,8293
	Saint-Péray	0,3317
	Lirac	1,1812
	Crozes-Hermitage	7,2069
	Diois	3,0293
	Vacqueyras	6,4314
	Saint-Joseph	4,4713
	Côtes-du-Rhône	155,9536
	Pierrevet	1,7815
	Vivarais	3,4293
	Tricastin	7,7614
	Ventoux	3,9888
	Luberon	8,3709
	<i>Total Vallée du Rhône region</i>	<i>209,4471</i>

Region	Quality wines psr	New plantings (ha)
PROVENCE CORSICA	Cassis	2,1942
	Les-Baux-de-Provence	2,0141
	Bandol	4,0463
	Côte de Provence	41,7802
	Bellet	0,7193
	Coteaux Varois	11,1971
	Coteaux d'Aix-en-Provence	7,9077
	Corsica	21,7776
	of which vin de Corse	16,5355
	of which Patrimonio	4,1631
	of which Ajaccio	0,3597
of which Muscat du Cap Corse	0,7193	
<i>Total Provence Corsica</i>		91,6365
<b>TOTAL QUALITY WINES PSR</b>		<b>1 680,0000</b>