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Legislation

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2496/97
of 11 December 1997

imposing a definitive anti-dumping duty on imports of silicon metal originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, and in particular Articles 9, 11 and 23 thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

- (1) By Regulation (EEC) No 2200/90⁽²⁾ the Council imposed a definitive anti-dumping duty on imports of silicon metal originating in the People's Republic of China hereinafter referred to as 'China'. Following a complaint lodged by the Community industry and the Commission's subsequent investigation, the Council, by Regulation (EEC) No 1607/92⁽³⁾ concluded that the anti-dumping duty in force had been absorbed, and, by amending Regulation (EEC) No 2200/90, imposed an additional duty on imports of Chinese silicon metal of an amount equal to that of the original duty.

2. Request for a review

- (2) Following the publication, in February 1995 of a notice of the impending expiry⁽⁴⁾ of the measures in force, the Commission received a request for a review lodged by the Comité de Liaison des Indus-

tries de Ferro-Alliages (CLIFA) on behalf of four Community producers allegedly representing a major proportion of the total production of the product concerned in the Community. The request contained evidence of dumping of the product originating in China, and of material injury likely to result in the event of expiry of the existing measures. This evidence was considered sufficient to justify the opening of a review investigation.

- (3) On 27 July 1995, the Commission announced by a notice⁽⁵⁾ published in the *Official Journal of the European Communities* (hereinafter referred to as the 'Notice of Initiation') the initiation of an expiry review of Regulation (EEC) No 2200/90 concerning imports into the Community of silicon metal originating in China and commenced an investigation pursuant to Article 11 (2) of Regulation (EC) No 3283/94⁽⁶⁾, subsequently repealed and replaced by Regulation (EC) No 384/96, (hereinafter referred to as 'the Basic Regulation'). The Commission also decided to initiate, on its own initiative, an interim review pursuant to Article 11 (3) of the Basic Regulation.

3. Investigation

- (4) The Commission officially advised the exporting producers and importers known to be concerned as well as their associations, the representatives of the exporting country and the complainant Community producers of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the Notice of Initiation. A number of importers and two organizations representing the user industry made their views known in writing. Hearings were granted to Community producers and to Chinese exporters which had requested them.

⁽¹⁾ 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).

⁽²⁾ OJ L 198, 28. 7. 1990, p. 57.

⁽³⁾ OJ L 170, 25. 6. 1992, p. 1.

⁽⁴⁾ OJ C 35, 11. 2. 1995, p. 3.

⁽⁵⁾ OJ C 193, 27. 7. 1995, p. 3.

⁽⁶⁾ OJ L 349, 31. 12. 1994, p. 1.

- (5) The Commission sent questionnaires for the purpose of a determination of dumping and injury to all parties known to be concerned and received replies from four complainant Community producers and two importers.
- (6) No replies to the questionnaire were received from any Chinese producer of the like product. A number of Chinese exporters (trading companies) responded within the time limits laid down in the questionnaires.
- (7) The Commission sought and verified all information deemed necessary for the purpose of a determination of dumping and injury, and carried out investigations at the premises of the following companies:
- (a) *complainant Community producers*
- Vereinigte Aluminium Werke AG, Bonn, Germany,
 - Ferroatlántica SL, Madrid, Spain,
 - Pechiney Electrométallurgie, Paris, France,
 - Industria Elettrica Indel SpA, Belluno, Italy;
- (b) *producers in the analogue country*
- ELKEM A/S, Oslo/Kristiansand, Norway,
 - FESIL A/S, Trondheim, Norway.
- (8) The investigation of dumping covered the period from 1 July 1994 to 30 June 1995 (hereinafter called 'the investigation period'). The examination of injury covered the period from 1992 up to the end of the investigation period.
- (9) All interested parties received disclosure of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive measures. Those parties were also given time to submit their views on the disclosure and, where requested, were again heard by the Commission. The views expressed were taken into account, where appropriate.
- (10) Due to the complexity of the proceeding and, in particular, the fact that precise facts about producers in the analogue country not subject to the investigation had to be established, the investigation could not be completed within the indicative deadline provided for under Article 11 (5) of the Basic Regulation.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

- (11) The product covered by this proceeding is silicon metal produced in an electric arc furnace by

roducing quartz in the presence of various carbonaceous products. It is marketed in the form of lumps, granules or powder under internationally accepted technical specifications as regards its purity. On the basis of these specifications it is possible to classify silicon metal in different qualities, destined for different end-uses, namely the production of silicones ('chemical grade'), the production of the primary aluminium grade and secondary aluminium grade. Its silicon content is less than 99,99 % by weight. The customs classification code for silicon metal under the Combined Nomenclature during the investigation period was CN code 2804 69 00.

Silicon metal with a higher purity, that is containing by weight not less than 99,99 % of silicon, used mostly in the electronic semiconductor industry, falls under a different CN code and is not covered by this proceeding.

2. Like product

- (12) The same international technical specifications apply both to the imported product referred to in the complaint and to silicon metal produced in the Community. Despite some difference in purity and dimensions between the Chinese and the Community product, their physical characteristics and applications are essentially the same, as is the case also for silicon metal produced and sold on the domestic market in the analogue country (Norway). The Community product and the imported product are therefore like products within the meaning of Article 1 (4) of the Basic Regulation.

C. DUMPING

1. Analogue country

- (13) As China is a non-market economy country, the Commission, in accordance with Article 2 (7) of the Basic Regulation, determined the normal value on the basis of data collected from producers in a market economy third country (the 'analogue country'). In the original investigation normal value was established on the basis of the prices payable in the Community.
- (14) In the Notice of Initiation of the review the Commission stated that Norway was envisaged as an appropriate market economy third country for the purpose of establishing normal value. This preliminary choice was based on information submitted in the review application, which stated that, in terms of both cost structure and production

technology, the Norwegian producers of the product concerned were amongst the most advanced in the world market, thus enabling a reasonable assessment to be made of normal value for the product concerned.

(15) All interested parties were given the opportunity to comment on the choice envisaged. The exporters objected to this choice. Their objections were, however, raised after expiry of the time limit laid down in the notice of initiation. They proposed Estonia as an alternative analogue country, erroneously claiming that this country had been the analogue country in the original investigation. No evidence in respect of the representativity of Estonian production was, however, received. Other parties, in the course of a hearing they were granted, even contested that there was any production in Estonia. Eurostat statistics, according to them, only reflected transhipped exports originating in other countries. Romania and Brazil were also suggested as analogue countries, but no evidence was provided as to why either of these countries would be a more suitable analogue country than Norway.

(16) In the course of the investigation, the Commission confirmed that Norway was one of the most important and efficient silicon metal producers in the world. Norway benefits from low energy costs, this fact being of importance since energy costs account for a large part of the manufacturing cost of silicon metal. Moreover, in particular because the factories are generally located in industrial harbours, the Norwegian producers benefit from a good access to raw materials and good exporting conditions. In addition, the production process in Norway is similar to the one now used in China, and the presence of two significant producers competing with imports ensures normal market conditions. Finally, silicon metal sales by the two cooperating Norwegian producers on their domestic market during the investigation period were made in significant quantities, since they amounted to more than 5 % of the exports from China to the Community.

(17) In the light of the above, it was considered appropriate and reasonable to use Norway as the analogue country for the establishment of normal value in respect of exports from China to the Community.

2. Normal value

(18) As far as the determination of normal value is concerned, the Commission established that the volume of the Norwegian producers' domestic sales

to unrelated customers of the silicon metal grade similar to that exported from China constituted more than 5 % of the sales volume of the products under consideration exported to the Community and were, consequently, 'representative' within the meaning of Article 2(2) of the Basic Regulation.

(19) Subsequently, in accordance with Article 2(4) of the Basic Regulation, the Commission examined whether the domestic sales of the like product had been made in the ordinary course of trade, by assessing the proportion of sales which were profitable. The assessment showed that more than 20 % by volume of sales were made below the average cost. Normal value was thus established on the basis of the weighted average prices actually paid for the remaining profitable sales only, as the volume of the latter exceeded 10 % of those sales. Normal value was established at the fob Norwegian frontier level.

3. Export price

(20) Replies to the questionnaire sent by the Commission were received from five companies exporting the product concerned from China. All those companies were represented by the China Chamber of Commerce for Import and Export of Metals, Minerals & Chemicals (CCCCMC). Owing to the persisting paucity and deficiencies of the replies, little information could be used. In particular, replies did not contain evidence that all sales of the product concerned to the Community had been reported, nor did they refer to the fact that some of the main Community importers might be related to the exporters, as part of State-controlled 'Minemetals' import and export network. Accordingly, in pursuance of Article 18(1) of the Basic Regulation, the findings with regard to export prices had generally to be based on facts available. In this respect, it was considered whether or not, in the absence of any other source of information, the export price for the product concerned could be based on Eurostat import statistics. In examining the reliability of the information provided by those statistics, the Commission noted that data relating to CN code 2804 69 00 covered exclusively silicon metal. Moreover, according to the information available, the characteristics of the silicon metal grade exported from China did not vary to any significant extent during the investigation period, so that an average price was in this case considered to be sufficiently accurate.

- (21) It was therefore concluded that the most reasonable basis for establishing the export price was to take the cif Eurostat import value for the CN code in question and corresponding statistics for Austria, Finland and Sweden before their accession to the Community.

4. Comparison

- (22) In accordance with Article 2 (10) of the Basic Regulation, normal value and export price were, however, adjusted to take account of differences in factors which were claimed and demonstrated on satisfactory evidence to affect price comparability. Normal value was indeed adjusted to take into account a difference in the level of trade when compared to Chinese export sales, as Norwegian domestic sales are generally made directly to end-users. These adjustments were also made in respect of transport and insurance costs, the corresponding costs being established on the basis of data available in the Chinese exporter's responses to the questionnaire, and the export price thus expressed at fob Chinese frontier level.

5. Dumping margin

- (23) In accordance with Article 2 (11) of the Basic Regulation, the weighted average normal value (fob Norwegian frontier) was compared with the weighted average export price (fob Chinese frontier).
- (24) The comparison of the normal value with the export price as defined above showed the existence of dumping, the dumping margin being equal to the amount by which the normal value exceeded the price of export to the Community.

The dumping margin, expressed as a percentage of the cif export price, free-at-Community frontier, amounted to 68,1 %.

D. COMMUNITY INDUSTRY

- (25) The Commission considered whether the Community producers which supported the request for a review and cooperated with the investigation represented a major proportion of total Community production, as provided for in Article 4 (1) of the Basic Regulation. In this respect it was found that the four producers which cooperated with the review manufactured almost the whole of the Community's output. It was therefore concluded that the four cooperating producers constituted the Community industry within the meaning of Article 4 (1) of the Basic Regulation.

E. INJURY

1. Consumption in the Community market

- (26) Apparent consumption (EU 15) of silicon metal in the Community market (based on questionnaire replies, Eurostat data and market information available to the Commission) increased from approximately 195 000 tonnes to around 256 000 tonnes, i.e. an increase of about 32 % between 1992 and the end of the investigation period.

2. Volume and market share of the dumped imports

- (27) It should be recalled that Chinese exporters had absorbed in 1992 the anti-dumping duty in force (see recital (1)). It has been established in the current investigation that the volume of dumped imports of silicon metal originating in China into the Community measured in metric tonnes showed a large decrease after the imposition of this additional anti-dumping (anti-absorption) duty in 1992. However, these imports subsequently recovered with a rise by 171 % between 1993 and 1994, and by 13,5 % from 1994 to the end of the investigation period. Thus, between 1992 and the end of the investigation period, imports originating in China, and sold in the Community, increased by 37 % in volume. These findings contradict claims that the imposition of additional anti-dumping measures would have resulted in the exclusion from the Community market of Chinese silicon metal.
- (28) The estimated market share of these imports into the Community market, based on apparent consumption, increased from 3,7 % in 1992 to 3,8 % during the investigation period, i.e. by 3 %.

3. Prices of dumped imports

- (29) As was explained in recitals (20) and (21), the paucity and deficiencies of the replies to the questionnaires received from the Chinese exporters, obliged the Commission to establish the export price on the basis of statistical figures (Eurostat and Austrian, Finnish and Swedish national statistics). The investigation has shown that after the review of the measures in 1992, Chinese duty unpaid prices had increased by 12,5 % in 1993. However, from 1994 up to the end of the investigation period, they decreased again to close to the level of 1992. From 1992, the year of the introduction of additional anti-dumping measures, up to the end of the investigation period these prices increased by only 4 %.

(30) The Commission also compared the prices of Chinese imports with the prices of the Community producers in order to determine whether the former undercut the latter. For this purpose, it was first established which (standard grade used in the aluminium industry) of the Community produced silicon metal was equivalent, in terms of specifications and uses, to the imported Chinese product. Since Chinese imports are all of standard quality the price comparison was made only with standard quality products of the Community industry. The weighted average ex-works producers' sale prices in the Community were then compared to the weighted average import prices of the Chinese product, adjusted to duty-paid net ex-warehouse levels in the Community at the same level of trade. For this analysis four markets were examined representing the most important markets (Germany, United Kingdom, France, Italy).

(31) On the above basis, it was found that Chinese import prices did not undercut the Community producers prices during the investigation period. However, when analysing actual resale prices to the first independent buyer of Chinese silicon metal, charged by a major unrelated importer representing 11 % of the total Chinese imports and who cooperated with the investigation, it was found that its prices were about 7 % lower than the corresponding Community industry prices. In addition, it is important to note that on the Community market, a fixed anti-dumping duty of ECU 396 per tonne, representing 51 % of the cif price, was in force. Consequently, if these measures were to lapse, undercutting would occur by a percentage of not less than 30 %.

4. Situation of the Community industry

(a) General

(32) A number of interested parties have pointed out that the Community industry does not suffer injury anymore, as the demand for silicon metal has changed since the end of the investigation period, leading to a supply shortage and a considerable increase in prices.

It should be noted that, pursuant to Article 6 (1) of the Basic Regulation, it is the practice of the Community institutions to base their analysis on dumping and injury on the situation prevailing during the investigation period. Such an approach is justified by the fact that the exact effect of developments such as those mentioned above can

only be established within the framework of a properly conducted investigation in which all interested parties can put forward their views and in which the information submitted can be verified and analysed.

(33) In this case, the volatility of the silicon metal market justifies the Community's approach, as no conclusions can be drawn from these alleged price fluctuations without investigation.

(34) The Commission took account of the following economic indicators in order to determine the state of the Community industry.

(b) Production

(35) Community production increased from approximately 98 000 tonnes to approximately 122 000 tonnes between 1992 and the end of the investigation period, an increase of 24,1 %. The output figures for this period reveal a slowdown in 1993 (-1,2 %), followed by a general increase as a result of a favourable outlook on the world market. Two of the Community producers who participated in the first investigation ceased their activities in 1992, while another restructured a production plant in Spain in 1993. The other Community producers have maintained a stable rate or have slightly increased their production.

(c) Capacity, capacity utilization

(36) Production capacity of Community industry increased by 5 % between 1992 and the end of the investigation period. This is mainly due to the restructuring in Spain. In addition, between 1992 and the end of the investigation period capacity utilization increased by 18 % for the reason given above.

(d) Stocks

(37) The volatility of the market and the expectations of the Community industry concerning the likely development of the Community market are shown by the trend in stocks. In this regard, stocks held by the Community industry grew by some 47 % during the period 1992 to the end of the investigation period, increasing from approximately 11 600 tonnes to approximately 17 000 tonnes.

(e) Sales

(38) Sales by the Community industry on the Community market increased from approximately 80 800 tonnes in 1992 to approximately 111 200 tonnes to the end of the investigation period, an increase of 37,6 % over the period of investigation.

(f) *Market share*

- (39) The increase in sales volume resulted in a slight increase in market share from 39,8 % in 1992 to 41,1 % of the market during the investigation period.

(g) *Average sales price and price trends*

- (40) As regards the development of Community industry, prices increased by 3 % after the imposition of additional anti-dumping duties on imports originating in China. However, between 1993 and 1994, they decreased by 3 %. Over the period considered, the Community industry sales price increased by 2 %.

(h) *Profitability*

- (41) Between 1992 and 1993 the Community industry registered an overall weighted average loss of 21,7 % and 22 % respectively, for sales of silicon metal in the Community market. The restructuring of a plant in Spain and a slight upward trend in market prices did not bring the Community industry out of a loss-making situation in 1993 and 1994. During and up to the end of the investigation period the Community industry registered a weighted average loss of 13,4 %.
- (42) The weighted average losses between 1992 and the end of the investigation period decreased by 38 %. Nevertheless, the Community silicon metal industry has not made any profit over the last ten years.

(i) *Employment*

- (43) The employment situation deteriorated steadily between 1992 and 1994, since the total workforce of the entire Community industry was reduced by 7 %.

5. Conclusion

- (44) After the imposition of measures the Community industry improved its position as to production, capacity utilisation, and sales. Nevertheless, it should be noted that capacity and market share have stagnated. The Community industry was unable to increase its prices to a satisfactory level even after the imposition of these measures, owing to the fact that the Chinese continued to lower their prices. In addition, following the substantial increase in the volume of stocks, the loss in employment and the accumulation of new financial losses, it is concluded that the Community industry

continues to suffer material injury within the meaning of Article 3 (1) of the Basic Regulation.

F. CAUSATION

- (45) The Commission examined whether the injury suffered by the Community industry was caused by dumped Chinese imports or whether other factors had caused or contributed to that injury.

1. Effect of dumped imports

- (46) The silicon metal produced by the Community and the silicon metal imported from China are in direct competition with each other, essentially on a price basis. This is explained by the fact that there are no significant differences in quality between the imported product and the Community produced one. The imported product targeted the same customers, namely aluminium smelters.
- (47) Since silicon metal is a commodity, its market is highly price sensitive and, consequently, low prices charged by certain vendors have a generally depressive effect on the market. The investigation has shown that after the review of the measures in 1992, Chinese duty unpaid prices had increased by 12,5 % in 1993. However, from 1994 up to the end of the investigation period, they decreased almost to the level of 1992.

Between 1992 (see recital (29)), the year of the introduction of additional anti-dumping measures, and the end of the investigation period the prices only increased by 4 %. Consequently, their level had a clearly depressive effect on the price of silicon metal in the Community market.

- (48) Moreover, if one analyses the period between 1993 and the end of the investigation period, Chinese prices fell by 7 %, while the Community market prices increased by 3 %. This fact shows the capacity of Chinese exporters to partly absorb the effect of the anti-dumping duties in force.
- (49) The Community industry tried to increase their prices in 1993, but had to follow the Chinese pricing policy. So, in 1994 the Community industry had attempted to reduce its financial losses by decreasing prices and trying to improve its sales.
- (50) Furthermore, owing to the price depression exerted by Chinese imports and despite the increased consumption of silicon metal in the Community market, the Community industry continued to suffer from losses or barely managed to cover their production costs.

- (51) Chinese exporters argued that there is no injury or likelihood of recurrence of injury suffered by the Community industry due to imports from China, because the Community industry has increased its production of silicon metal and particularly since 1992.
- (52) However, as mentioned before (see recital (35)), the Community industry increased their own production between 1992 and the end of the investigation period by 24,1 %, in a market which grew by 32 % (see recital (26)). At the same time, the stocks of the Community industry increased by 46,6 % (see recital (37)). The Community industry expected, on account of a favourable market situation, to increase their sales accordingly. On the contrary, they were forced to increase their stocks, instead of following the depressed prices dictated by the Chinese imports, which continued to enter the Community market at low prices before anti-dumping duty.
- (53) In conclusion, the Chinese dumped imports have clearly had a depressive effect on the market price in the Community and have had an impact on the poor financial situation of the Community industry.

2. Effect from other factors

- (54) Imports of silicon metal from countries producing silicon metal other than China have entered the Community in the period from 1992 up to the end of the investigation period. The market share of Norwegian imports (calculated on the basis of the apparent consumption figures in recital (26) above) increased from 22,1 % in 1992 to 27,7 % up to the end of the investigation period. Imports originating in Brazil fell during the same period from 10,4 % to 7,3 %. The same situation prevailed for the other two important exporters of silicon metal into the Community, South Africa and Australia. Their imports fell from 14,8 % to 9,2 % and from 4,1 % to 3 % respectively.
- (55) Chinese exporters argued that silicon metal from Russia and the Ukraine may also have caused injury to the Community industry. However, the Commission considers that the quality of silicon metal from Russia and the Ukraine is not comparable to European or Chinese silicon metal. The standard quality exported by China contains 0,5 % of iron, compared with between 0,8 % to 1 % for the Russian and Ukrainian product. The above-mentioned imported products need special treatment before they can be compared to the European and Chinese product.

Indeed, it was established that anti-dumping measures are not applied in the United States of America to silicon metal originating in Russia, owing to the fact that these products have to be treated and purified before being used by the aluminium smelting industry.

- (56) In addition, the Commission examined the Eurostat import statistics and established that imports originating in Russia and the Ukraine are not carried out on a regular basis. In 1992 there were no imports from Russia or the Ukraine. According to market information, actual production capacity in the two countries seems to be limited to 100 000 tonnes per year. Thus, it seems unlikely that significant quantities would be shipped from Russia and Ukraine.
- (57) Lastly it was established that the market share of South Africa had decreased due to production problems, and that Norway increased its market share but with the highest cif price shown in Eurostat.
- (58) No other factors were found which would have negative influence on the Community industry.

3. Conclusion

- (59) Given the simple production process involved and the maturity and simplicity of the product offered through similar sales channels in the Community, and the transparency of the market, the Commission considers that the Chinese low-priced imports policy had a substantial negative impact on the situation of the Community industry.

Even if certain imports originating in other countries may have contributed to the negative situation of the Community industry, it must be concluded that the price suppression, due to the Chinese imports has, taken in isolation, clearly caused material injury to the Community industry.

G. CONTINUATION OF DUMPING/INJURY

1. General

- (60) Exporters argued that in order to determine whether there is a likelihood of continuation of dumping and injury the market trends have to be analysed throughout the period between 1988 and the end of the investigation period.
- (61) In this respect the Commission examined the level of imports into the Community of 15 over a four-year period and especially after the imposition of

the additional anti-dumping measures due to the absorption. This period can be considered to be sufficiently long for the purposes of establishing injury indicator trends in anti-dumping investigations.

2. Chinese position in the world market

- (62) Past experience, combined with the present situation, show that the Chinese industry has continued to export silicon metal into the Community at dumped prices. An anti-dumping investigation carried out by the United States administration established, in 1991, that Chinese exports had been dumped and anti-dumping duties at a rate of 134 % were imposed. Chinese exports to the United States decreased dramatically after the imposition of these measures.
- (63) China is by far the biggest supplier of silicon metal in the world. In 1994, Chinese exports were approximately 116 000 tonnes. The lion's share of these exports goes to Japan which purchased 83 763 tonnes, or 72 % of total Chinese exports in 1994. Until 1993, Chinese sales to the other Asian countries had increased sharply while sales into the US market remained depressed due to anti-dumping duties in force since 1991. Sales to the Community recovered in 1994 despite the continued existence of anti-dumping duties.
- (64) Chinese exports of silicon metal into Japan stagnated in 1993 and 1994, totalling 86 400 tonnes and 82 600 tonnes respectively. The same situation occurred in Australia. In South Korea, Chinese exports decreased over the same period. All the above corroborates the fact that the Japanese and other Asian markets are saturated, a finding which is confirmed by the fact that patterns of export volumes to China's main clients, namely Japan, South Korea and Australia, showed a substantial increase up to 1993 and stability thereafter.

3. Chinese production capacity

- (65) The exporters argued that numerous Chinese factories have been closed down and that production capacity in China has been reduced. Moreover, increasing domestic consumption of silicon metal in China would result in smaller quantities being available for export. The same exporters argued that an increase in demand in the Community is expected by the end of the decade and that, consequently, the Community industry will not have the capacity to supply sufficient quantities.
- (66) According to market information the Chinese production of silicon metal decreased from 450 000

tonnes in 1989 to 250 000 tonnes in 1994. It is likely that as soon as the measures in the Community and the United States lapse, the Chinese may convert production from other alloys to silicon metal and regain the high levels of production, previously held which could be exported to the Community.

4. Likelihood of continuation of dumping

- (67) As regards dumping, it should be recalled that, during the investigation period, the imports concerned originating in China have continued to be dumped, at a level similar to that established during the investigation into absorption of the original duty rate carried out in 1992. Moreover, the prices of Chinese imports into Austria, Sweden and Finland shortly before their accession to the Community were also low and likely to have been dumped. It is therefore considered highly likely that if the measures were to expire this would lead to a continuation of dumping, within the meaning of Article 11 (2) of the Basic Regulation.

5. Likelihood of continuation of injury

- (68) Chinese imports continued to be low-priced and to suppress the Community prices of silicon metal even after the imposition of additional anti-dumping duties. Chinese import prices were the lowest in the Community market over the period from 1992 to the end of the investigation period. Even with a small percentage of the Community consumption, they have had an important effect on the downward trend of the prices. Finally, if the measures of a fixed amount of ECU 396 per tonne were to lapse, an undercutting of 30 % would occur.
- (69) Furthermore, given the present huge capacity of Chinese production and the existence of high anti-dumping duties in the United States, it is very likely that the Chinese will try to increase their sales into the Community market at very low prices if the measures lapse, leading to an aggravation of price depression on the Community market and consequently growing injury to the Community industry.

The trend of imports into Sweden and Finland before and after their accession into the Community confirms the likelihood of such a development. Between July and December 1994 Sweden imported 493 tonnes, in contrast to the period from January to June 1995 when no imports from China were declared. The same situation prevailed in Finland, where in the last semester of 1994 2 097 tonnes were imported from China, whereas

no imports were declared for the first semester of 1995. It is obvious that the volume of Chinese imports is strongly influenced by the existence or absence of anti-dumping measures. It is therefore concluded that at least a continuation of the injury suffered by the Community industry will occur should the anti-dumping duties in force be allowed to expire.

6. Conclusion

- (70) On the basis of the above it is therefore considered that, if the anti-dumping measures currently in force were to lapse the Chinese exporters would continue to export to the Community market at very low prices. This would have as a consequence the continuation of price depression on the Community market causing further injury to the Community industry.

H. COMMUNITY INTEREST

1. General

- (71) Pursuant to Article 21 (1) of the Basic Regulation, the Commission examined, on the basis of all evidence submitted, whether it could clearly be concluded that it was not in the Community interest to continue to apply measures.

For this purpose, the Commission considered the impact of existing measures and other possible measures, and the consequences for all parties involved in the proceeding, of not taking measures.

2. Consequences for the Community industry

- (72) The purpose of anti-dumping measures is to remedy an unfair trading practice that has an injurious effect on a Community industry. Such a remedy should result in the re-establishment of a situation of effective competition which, as such, is in the interest of all the operators in the Community.
- (73) In the course of this investigation it has been established that the Community industry continues to suffer injury, and that it is highly probable that, without the continuation of anti-dumping measures to correct the effects of dumped imports, the precarious financial situation of the Community industry will further deteriorate. Thus, the existence of the Community industry as a whole may ultimately be at risk. Two companies which took part in the previous investigations do not exist any more. It is also the Commission's opinion that if fewer

producers are present in the Community market, competition may be reduced commensurately.

- (74) On the basis of the facts established, it is reasonable to conclude that if the measures are allowed to lapse, there will be further factory closures and job losses in addition to those which have already occurred.
- (75) When examining the Community interest in relation to the Community industry, the Commission had to take future developments into consideration. On the basis of studies for the future of the silicon metal industry world-wide it can reasonably be assumed that the use of this product could increase by possibly around 5 % per year.
- (76) Furthermore, the ongoing restructuring efforts made by the Community industry show that it is not ready to abandon this segment of production, and therefore action against the adverse effects of clumped imports is necessary.

3. Impact on the users

- (77) No individual user submitted any substantiated information during the current investigation. One Community user association and two national user associations submitted information requesting the termination of the measures.
- (78) A United Kingdom aluminium producers association claimed that the quality of the silicon metal imported from China justified a price lower than that for the same product originating in other countries. This allegation was not substantiated by any evidence. In addition, neither in the original investigation nor in the current investigation, was it established that there was a significant difference in quality, justifying different pricing between Chinese silicon metal and that originating from other sources. This claim has to be rejected.
- (79) The same association also argued, that the international competitive position of the aluminium products, produced in the Community, is damaged by the imposition of the anti-dumping measures. It was however established that the silicon metal used for the production in the Community of aluminium for export can enter the Community without any duty under the inward processing arrangements. This argument has therefore been dismissed.
- (80) A user claimed that it is against the Community interest to continue imposing anti-dumping duties on Chinese imports of silicon metal owing to the fact that the Community industry would not be able to supply the Community market with sufficient quantities. It was found that, owing to the presence of other extra Community suppliers, the risk of a general supply shortage is very low.

- (81) As far as the competitive environment of the Community market is concerned, user industries and other economic operators have always enjoyed the presence of a wide range of competitors in the market, since the Community industry, even exploiting its entire production capacity, could only satisfy roughly 50 % of the demand on the Community market.

Imports from third countries will therefore always be necessary. After the imposition of anti-dumping measures, producers located in China would be able to promote their exports to the Community at fair prices. The only anti-dumping measures in force against imports into the Community of silicon metal are those applied to imports originating in China and Brazil.

- (82) The impact of the measures in force on the structure of the cost of production at the aluminium smelters in particular was examined. This analysis showed that for the production of aluminium 226 and 231, representing 50 % of total aluminium production, a weight of between 5,5 % to 6 % of silicon metal is required. The value of silicon metal used in this production represents 5,2 % of the overall cost of the aluminium. The impact of the existing measures on the price of an aluminium alloy which only includes silicon metal originating in China accounts for 1,7 %. This is a relatively small percentage of the total production costs, which points to the conclusion that any effect on users of the existing anti-dumping measures remains very limited.

4. Impact on importers

- (83) Only a limited number of importers made their views on Community interest known to the Commission. One of them cooperated in the determination of dumping and injury.
- (84) One company located in the United Kingdom and no longer importing the product concerned explained, that the prices charged by the Chinese exporters fob are such as to give only a slightly lower price.

It further claimed that since the imposition of the measures a price increase of over £ 300 per metric tonne has occurred. Moreover, it maintained that the imposition of measures conferred little benefit on the Community industry, as the main suppliers of the Community market are Norway and South Africa. They would allegedly have used the imposi-

tion of anti-dumping measures on the Chinese imports in order to dominate the British market.

It has to be pointed out, that after the imposition of the additional anti-dumping measures and up to the investigation period a weighted average increase of only 9,8 % was recorded on all imports of silicon metal into the Community market. Furthermore, the Community industry increased its prices by 2 % during the same period (recital (40)). It has already been established (recital (57)) that the market share of South Africa decreased owing to production problems, and that Norway increased its market share with, however, the highest cif Eurostat price.

These arguments have to be rejected.

5. Impact on the competitive environment

- (85) With respect to the competitive situation on the Community market, the Commission considered whether the existing measures and their continuation might affect effective competition. First, it should be recalled that after five years of anti-dumping measures silicon metal of Chinese origin was still available on the Community market. Other exporters had increased their presence in that market. Consequently, the Commission came to the conclusion that it does not appear to be realistic to foresee acute supply shortages in the silicon metal market, nor any negative effect on effective competition.

6. Conclusion on Community interest

- (86) On the basis of the above facts and considerations, in particular, and having examined the arguments submitted by the Community industry, Community downstream industry and importers of the product concerned, it is considered that, on balance, it is in the overall Community interest that the anti-dumping measures on silicon metal originating in China should not be allowed to expire.

I. ANTI-DUMPING MEASURES

1. Injury elimination level

- (87) During the investigation period, it was established that the return on sales of the product concerned was negative because the selling prices charged by the Community industry were below the verified cost of production.

- (88) In order to obtain a non-injurious reference level for export prices, the Commission established first the Community industry actual cost of production. With respect to a reasonable level of profit, one Community producer claimed that a minimum pre-tax profit of 7,5 % on sales was required for it to remain competitive. The Commission used a rate of 6,5 % on turnover, a rate which is considered to be sufficient given the mature nature of the product, requiring only modest investment in research and development or in production equipment.
- (89) The price, determined by adding 6,5 % profit to the average cost of production of the Community industry was duly adjusted to take account of differences in the level of trade between the imports and the sales of the Community industry.
- (90) On this basis, the injury margin was determined by taking into account the cif Chinese prices (Eurostat data) and amounted to 49 % of the cif price of the imports in question. According to this injury margin, which is lower than the actual dumping margin, the actual measures would have to be ECU 376,5/tonne, instead of ECU 396/tonne, which is the level of the measures in force.

2. Definitive duties

- (91) Considering the conclusions on dumping, injury, causality, likelihood of continuation of dumping and injury and Community interest outlined above, the Commission considers it necessary to continue to impose anti-dumping measures which should restore effective and fair competitive conditions on the Community silicon metal market.
- (92) Referring to Article 8 of the Basic Regulation the Chinese traders proposed an undertaking or the imposition of a variable duty. The lack of coopera-

tion, as demonstrated by inadequacy of the Chinese replies to the questionnaires, indicates that efficient monitoring of undertakings would be jeopardised. Furthermore, the previous behaviour of the Chinese traders does not make the imposition of a variable duty appropriate.

- (93) On the basis of the above, and taking into account the fact that those measures have been in force since 1992 at their current level, it is considered more appropriate that the anti-dumping measures on imports of silicon metal originating in China should take the form of an *ad valorem* anti-dumping duty, the rate of which should be set at 49 %.
- (94) The Council confirms the above conclusions,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of silicon metal originating in China, falling within CN code 2804 69 00.
2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall be 49 %.
3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

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

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

Done at Brussels, 11 December 1997.

For the Council

The President

M. DELVAUX-STEHRÉS

COMMISSION REGULATION (EC) No 2497/97
of 15 December 1997

correcting Regulation (EC) No 1466/95 laying down special detailed rules of application for export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1587/96 ⁽²⁾, and in particular Article 17 (14) thereof,

Whereas Annex III to Commission Regulation (EC) No 1466/95 ⁽³⁾, as last amended by Regulation (EC) No 2283/97 ⁽⁴⁾, defines the product groups within the meaning of Article 2a (2) (1) (b) of Commission Regulation (EEC) No 3665/87 ⁽⁵⁾, as last amended by Regulation (EC) No 2114/97 ⁽⁶⁾; whereas mistakes have crept into certain product codes in that Annex III; whereas they should be corrected with effect from the entry into force of Regulation (EC) No 2283/97;

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

HAS ADOPTED THIS REGULATION:

Article 1

The data in Group No 14 in Annex III to Regulation (EC) No 1466/95 are hereby replaced by the following.

Group No	Milk product code (nomenclature for export refunds)
'14	0402 99 19 9310 0402 99 19 9330 0402 99 19 9350 0402 99 39 9150 0402 99 39 9300 0402 99 39 9500 0402 99 99 9000'

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 25 November 1997.

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

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 13.
⁽²⁾ OJ L 206, 16. 8. 1996, p. 21.
⁽³⁾ OJ L 144, 28. 6. 1995, p. 22.
⁽⁴⁾ OJ L 314, 18. 11. 1997, p. 13.
⁽⁵⁾ OJ L 351, 14. 12. 1987, p. 1.
⁽⁶⁾ OJ L 295, 29. 10. 1997, p. 3.

COMMISSION REGULATION (EC) No 2498/97
of 15 December 1997

amending Regulation (EC) No 3175/94 laying down detailed rules of application
for the specific arrangements for the supply of cereal products to the smaller
Aegean islands and establishing the forecast supply balance

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

Having regard to Council Regulation (EEC) No 2019/93
of 19 July 1993 introducing specific measures for the
smaller Aegean islands concerning certain agricultural
products⁽¹⁾, as last amended by Commission Regulation
(EC) No 2417/95⁽²⁾, and in particular Article 4 thereof,

Whereas Commission Regulation (EEC) No 2958/93⁽³⁾,
as last amended by Regulation (EC) No 1802/95⁽⁴⁾, lays
down common detailed rules for the implementation of
the specific arrangements for the supply of certain agri-
cultural products to the smaller Aegean islands;

Whereas, pursuant to Article 2 of Regulation (EEC) No
2019/93, the forecast supply balance of cereal products
was established for 1997 by Commission Regulation (EC)
No 3175/94⁽⁵⁾, as last amended by Regulation (EC) No
2234/97⁽⁶⁾; whereas this forecast supply balance for 1998
should be drawn up; whereas, subsequently, Regulation
(EC) No 3175/94 should be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 3175/94 is hereby
replaced by the Annex to the present Regulation.

Article 2

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

It shall apply from 1 January 1998.

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

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 184, 27. 7. 1993, p. 1.

⁽²⁾ OJ L 248, 14. 10. 1995, p. 39.

⁽³⁾ OJ L 267, 28. 10. 1993, p. 4.

⁽⁴⁾ OJ L 174, 26. 7. 1995, p. 27.

⁽⁵⁾ OJ L 335, 23. 12. 1994, p. 54.

⁽⁶⁾ OJ L 306, 11. 11. 1997, p. 9.

ANNEX

ANNEX

Supply balance for cereals for the smaller Aegean islands for 1998

(in tonnes)

Quantity		1998	
Cereal products originating in the European Communities	CN code	Islands belonging to group A	Islands belonging to group B
Grain cereals	1001, 1002, 1003, 1004 and 1005	7 300	41 750
Barley originating in Limnos	1003	5 000	
Wheat flour	1101 and 1102	11 000	40 000
Food industry residues and waste	2302 to 2308	4 000	26 500
Preparations of a kind used in animal feeding	2309 90	2 500	12 000
Total		24 800	120 250
Grand Total		150 050	

These groups are defined in Annexes I and II to Regulation (EEC) No 2958/93.

COMMISSION REGULATION (EC) No 2499/97

of 15 December 1997

amending Regulation (EC) No 2012/96 opening and providing for the administration of a Community tariff quota for grape juice and must as from the 1996/97 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations⁽¹⁾, and in particular Article 1 (1) thereof,

Whereas Commission Regulation (EC) No 2012/96⁽²⁾ introduces a Community tariff quota for 14 000 tonnes of imported grape juice and must and provides for exemption from the specific duty per hectolitre pursuant to the agreement concluded as part of the World Trade Organisation multilateral trade negotiations;

Whereas access to that quota is subject to certain specific conditions concerning the use of the imported products; whereas compliance with those conditions is ensured by a security lodged by the importer on release for free circulation of the products with the customs service of the Member State concerned; whereas that security is to be equal to the specific duty waived; whereas the security is to be released forthwith in respect of imported quantities for which the operator provides proof that the products have been used for the purpose specified in the import licence; whereas experience has shown that transport between release for free circulation and the end use specified in the import licence may give rise to many forms of handling; whereas such handling may entail repackaging and may result in residues in containers, tanks or pumping equipment; whereas circumstances therefore exist that are likely to prevent 100 % proof of utilisation of the quantities imported from being obtained; whereas a tolerance should therefore be fixed for any losses due to such handling and transport; whereas provision should accordingly be made for the security to be released in full where proof is provided that the products have been used

for the purpose specified in the import licence, subject to a certain tolerance;

Whereas such losses may have affected products imported since the entry into force of Regulation (EC) No 2012/96; whereas this Regulation should apply to operators who so request in respect of the imports referred to above;

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

HAS ADOPTED THIS REGULATION:

Article 1

The following sentence is hereby added to Article 5 (b) of Regulation (EC) No 2012/96:

'The security referred to herein shall be released in full once the operator has provided proof that the whole quantity of products imported has been used for the purpose specified, subject to a tolerance of 1 % of such quantities to cover losses verified and certified by the competent inspection body and resulting from handling and transport between release for free circulation and utilisation for the purpose concerned. That tolerance shall not apply in cases of *force majeure*.'

Article 2

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

On application by the operators, this Regulation may apply to products released for free circulation from 25 October 1996 in respect of which proof has not yet been provided that the whole quantity imported has been used for the purpose specified in the import licence.

⁽¹⁾ OJ L 146, 20. 6. 1996, p. 1.

⁽²⁾ OJ L 269, 22. 10. 1996, p. 8.

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

Done at Brussels, 15 December 1997.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 2500/97
of 15 December 1997
establishing the supply balance for pigmeat for the Azores and Madeira and
amending Regulation (EEC) No 1725/92

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 concerning specific measures for the Azores and Madeira relating to certain agricultural products⁽¹⁾, as last amended by Regulation (EC) No 2348/96⁽²⁾, and in particular Article 10 thereof,

Whereas Commission Regulation (EEC) No 1725/92⁽³⁾, as last amended by Regulation (EC) No 1882/97⁽⁴⁾, fixes, for the period 1 July to 31 December 1997, the quantities in the supply balance which qualify for exemption from the levy on direct imports from third countries or for aid for consignments originating in the rest of the Community and the numbers of pure-bred breeding animals originating in the Community and qualifying for aid for the development of the production potential of the Azores and Madeira;

Whereas, pending a communication from the competent authorities updating the requirements for the Azores and Madeira and in order to avoid a break in the application of the specific supply arrangements, the balance was drawn up for the period 1 July to 31 December 1997 by Regulation (EEC) No 1725/92; whereas the balance for the period 1 July 1997 to 30 June 1998 has been drawn up following the presentation of data on the requirements

for the Azores and Madeira by the Portuguese authorities; whereas the Annexes to Regulation (EEC) No 1725/92 should accordingly be replaced by the Annexes hereto;

Whereas the supply balances provided for in these specific supply arrangements are drawn up for the period 1 July to 30 June; whereas the definitive supply balance should therefore apply from the beginning of that period, i.e. 1 July 1997;

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

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I, II and III to Regulation (EEC) No 1725/92 are hereby replaced by the Annex hereto.

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. However, the aid fixed in Annex II shall apply from 1 January 1998.

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

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27. 6. 1992, p. 1.

⁽²⁾ OJ L 320, 11. 12. 1996, p. 1.

⁽³⁾ OJ L 179, 1. 7. 1992, p. 95.

⁽⁴⁾ OJ L 265, 27. 9. 1997, p. 67.

ANNEX

ANNEX I

Forecast supply balance for Madeira for products from the pigmeat sector for the period 1 July 1997 to 30 June 1998

<i>(tonnes)</i>		
CN code	Description	Quantity
ex 0203	Meat of domestic swine, fresh, chilled, or frozen	2 000

ANNEX II

Aid granted for products referred to in Annex I and coming from the Community market

<i>(ECU/100 kg net weight)</i>	
Product code	Aid
0203 11 10 9000	5,2
0203 12 11 9100	7,8
0203 12 19 9100	5,2
0203 19 11 9100	5,2
0203 19 13 9100	7,8
0203 19 15 9100	5,2
0203 19 55 9110	8,8
0203 19 55 9310	8,8
0203 21 10 9000	5,2
0203 22 11 9100	7,8
0203 22 19 9100	5,2
0203 29 11 9100	5,2
0203 29 13 9100	7,8
0203 29 15 9100	5,2
0203 29 55 9110	8,8

NB: The product codes and footnotes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24. 12. 1987, p. 1).

ANNEX III

PART 1

Pure-bred breeding pigs originating in the Community for supply to the Azores for the period 1 July 1997 to 30 June 1998

(Ecu/head)

CN code	Description	Number of animals to be supplied	Aid
0103 10 00	Pure-bred breeding pigs (!):		
	— male animals	100	483
	— female animals	400	423

(!) Inclusion in this subheading is subject to the conditions laid down in the relevant Community provisions.

PART 2

Pure-bred breeding pigs originating in the Community for supply to Madeira for the period 1 July 1997 to 30 June 1998

(ECU/head)

CN code	Description	Number of animals to be supplied	Aid
0103 10 00	Pure-bred breeding pigs (!):		
	— male animals	120	483
	— female animals	1 600	423

(!) Inclusion in this subheading is subject to the conditions laid down in the relevant Community provisions.

COMMISSION REGULATION (EC) No 2501/97

of 15 December 1997

**derogating temporarily from Regulation (EC) No 1445/95 on rules of application
for import and export licences in the beef and veal sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 2222/96 ⁽²⁾, and in particular Articles 9 and 13 thereof,

Whereas Article 10 (1) of Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80 ⁽³⁾, as last amended by Regulation (EC) No 2284/97 ⁽⁴⁾, provides that export licences are to be issued on the fifth working day following that on which the application is lodged, provided that no specific action is taken by the Commission in the meantime;

Whereas, in view of the relatively small quantity still available until 30 June 1998 for which licences can be issued and the small number of days on which the Official Journal is to be published in the last 10 days of December 1997, that period for reflection of five days is

too short to ensure sound management of the market and should be increased temporarily to six days;

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

HAS ADOPTED THIS REGULATION:

Article 1

Notwithstanding Article 10 (1) of Regulation (EC) No 1445/95, applications for licences lodged from 22 to 31 December 1997 shall be issued on the sixth working day following that on which the application is lodged, provided that no specific action as referred to in paragraph 2 of that Article is taken by the Commission in the meantime.

Article 2

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

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

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ L 296, 21. 11. 1996, p. 50.

⁽³⁾ OJ L 143, 27. 6. 1995, p. 35.

⁽⁴⁾ OJ L 314, 18. 11. 1997, p. 17.

COMMISSION REGULATION (EC) No 2502/97
of 15 December 1997
amending Regulation (EEC) No 3886/92 laying down detailed rules for the
application of the premium schemes for beef and veal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾, as last amended by Regulation (EC) No 2321/97⁽²⁾, and in particular Articles 4b (8) and 4i (5) thereof,

Whereas Article 4b (7) of Regulation (EEC) No 805/68 states that all male bovine animals must be covered by administrative documents at the latest from the time of the first premium application until slaughter; whereas Article 3 of Commission Regulation (EEC) No 3886/92 of 23 December 1992 laying down detailed rules for the application of the premium schemes provided for in Council Regulation (EEC) No 805/68 on the common organization of the market in beef and repealing Regulations (EEC) No 1244/82 and (EEC) No 714/89⁽³⁾, as last amended by Regulation (EC) No 2316/97⁽⁴⁾, lays down provisions regarding such documents; whereas, furthermore, Article 6 (2) of Council Regulation (EC) No 820/97 of 21 April 1997 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products⁽⁵⁾ stipulates that whenever an animal is moved, it is to be accompanied by its passport; whereas, in order to reduce the number of documents required to cover bovine animals, Member States should be allowed to decide that the passports referred to above can replace the administrative documents provided such passports also enable checks to be carried out of the special premiums granted pursuant to Article 4b of Regulation (EEC) No 805/68;

Whereas Article 49 (1) of Regulation (EEC) No 3886/92 lays down the conditions for the granting of the processing premium; whereas there is a risk that the conditions governing animal welfare and in particular those laid down in Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport and amending Directives 90/425/EEC and 91/496/EEC⁽⁶⁾, as

last amended by Directive 95/29/EC⁽⁷⁾, may not be fully observed in the case of young calves for processing; whereas the abovementioned Article 49 (1) should therefore be amended;

Whereas there are two rates for the processing premium per eligible calf provided for in Article 49 (4) of Regulation (EEC) No 3886/92 depending of the breed of the calf; whereas that variation has resulted in certain problems of verification; whereas, in addition, experience has shown that animals of breeds other than dairy breeds are often inferior in quality to those warranting a higher processing premium; whereas, as a consequence, a single amount should be laid down for the processing premium irrespective of the breed of the calf;

Whereas the variation in the early marketing premium for veal calves provided for in Article 50 (3) of Regulation (EEC) No 3886/92 has enabled the number of calves slaughtered to be generally in line with the target; whereas, there has, however, been a downward trend in the number of applications submitted for the premium for lighter calf carcasses slaughtered since July 1997; whereas, with a view both to improving the situation and to encouraging participation by all calf producers until the arrangements expire, provision should be made, on the basis of experience gained, for the premium to vary with the carcass weight;

Whereas the Kerry breed, which used to be a milk breed, is now largely for meat production; whereas, by virtue of the fact that the breed is included in the list in Annex II to Regulation (EEC) No 3886/92, animals belonging to that breed are not eligible for the suckler cow premium; whereas the Kerry breed should be deleted from the abovementioned list to bring it into line with the current situation of production;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3886/92 is hereby amended as follows:

⁽⁷⁾ OJ L 148, 30. 6. 1995, p. 52.

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ L 322, 25. 11. 1997, p. 25.

⁽³⁾ OJ L 391, 31. 12. 1992, p. 20.

⁽⁴⁾ OJ L 321, 22. 11. 1997, p. 14.

⁽⁵⁾ OJ L 117, 7. 5. 1997, p. 1.

⁽⁶⁾ OJ L 340, 11. 12. 1991, p. 17.

1. the following paragraph is added to Article 3:

'5. However, Member States may decide that the national administrative and trade documents provided for in this Article are to be replaced by the passport provided for in Article 6 of Regulation (EC) No 820/97. In such cases, the competent authorities of the Member State shall ensure that such passports ensure that only one premium is granted per animal and per age bracket in accordance with Article 4b of Regulation (EEC) No 805/68.'

2. in Article 49:

(a) the second indent of paragraph 1 is replaced by the following:

'— is presented in a general condition showing no signs, in particular, of health anomalies, malformations or any failure to comply with the provisions of Directive 91/628/EEC, and';

(b) paragraph 4 is replaced by the following:

'4. The premium per eligible calf shall amount to ECU 115.'

3. Article 50 (3) is replaced by the following:

'3. The premium to be paid shall amount to ECU 45 per animal slaughtered as from 1 December 1997.

However, that premium shall be increased:

- by ECU 30 in the case of carcasses weighing not more than 110 kg,
- by ECU 15 in the case of carcasses weighing more than 110 kg but not more than 120 kg, and
- by ECU 5 in the case of carcasses of animals slaughtered as from 1 December to 31 December 1997 and weighing more than 120 kg.'

4. the Kerry breed is deleted from the list in Annex II.

Article 2

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

It shall apply from 1 January 1998. However, Article 1 (2) (b) shall apply to animals presented for processing from the first Monday following the day of its publication in the *Official Journal of the European Communities* and Article 1 (3) shall apply to animals slaughtered as from 1 December 1997.

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

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 2503/97
of 15 December 1997
adjusting the maximum annual fishing effort for certain fisheries

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

Having regard to Council Regulation (EC) No 2027/95 of 15 June 1995 establishing a system for the management of fishing effort relating to certain Community fishing areas and resources ⁽¹⁾, and in particular the second indent of Article 4 thereof,

Whereas the second indent of Article 4 of Regulation (EC) No 2027/95 provides that the Commission, at the request of a Member State, shall take appropriate measures so that the Member State in question can fish its quotas in accordance with the third subparagraph of Article 6 (2) of Council Regulation (EC) No 685/95 of 27 March 1995 on the management of fishing effort relating to certain Community fishing areas and resources ⁽²⁾;

Whereas Germany has asked the Commission to adjust the maximum annual fishing effort, for 1997, granted to its vessels in respect of certain quotas which are allocated to it under Council Regulation (EC) No 390/97 of 20 December 1996 fixing for certain fish stocks and groups of fish stocks the total allowable catches for 1997 and certain conditions under which they may be fished ⁽³⁾, as

last amended by Council Regulation (EC) No 1974/97 of 7 October 1997 ⁽⁴⁾;

Whereas this Regulation shall immediately enter into force in order to allow Germany to fish its quota;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum annual fishing effort for Germany in respect of demersal species using fixed gear, as referred to in Annex to Regulation (EC) No 2027/95, is amended, for 1997, as laid down in the Annex hereto.

Article 2

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

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

Done at Brussels, 15 December 1997.

For the Commission

Emma BONINO

Member of the Commission

⁽¹⁾ OJ L 199, 24. 8. 1995, p. 1.

⁽²⁾ OJ L 71, 31. 3. 1995, p. 5.

⁽³⁾ OJ L 66, 6. 3. 1997, p. 1.

⁽⁴⁾ OJ L 278, 11. 10. 1997, p. 1.

ANNEX

Fishery		Fishing effort (*)			
Fishing gear	Target species	ICES or Cefac area	DE		
Fixed gear	Demersal species	V b (1), VI, VII, VIII, IX, X and Cefac 34.1.1, 34.1.2, 34.2.0	747		
		Of which: V b (1), VI	447		
		Of which: (2)	123		
		VII	300		
		Of which: (2)	60		
		VII a	0		
		VII f (2)	0		
		VIII a, VIII b, VIII d	0		
		VIII c, VIII e, IX, X and Cefac 34.1.1, 34.1.2 and 34.2.0	0		
		Of which: VIII c, VIII e, IX (3)	0		
		IX (4)	0		
		X (4)	0		
		Cefac 34.1.1 (3)	0		
		Cefac 34.1.2 (3)	0		
Cefac 34.2.0 (3)	0				
Cefac 34.1.1 (4)	0				
Cefac 34.1.2 (4)	0				
Cefac 34.2.0 (4)	0				

(*) Expressed in thousands of kW × fishing days.

(**) Area defined in Article 3 (5) of Regulation (EC) No 685/95. The fishing effort for this area is for both towed and fixed gear.

(1) Except for waters under the sovereignty/jurisdiction of the Faroes and Iceland.

(2) North of 50°30' N.

(3) Solely in waters under the sovereignty/jurisdiction of Spain.

(4) Solely in waters under the sovereignty/jurisdiction of Portugal.

COMMISSION REGULATION (EC) No 2504/97

of 15 December 1997

opening an invitation to tender for the reduction in the duty on sorghum imported into Spain from third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 12 (1) thereof,

Whereas, pursuant to the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations the Community has undertaken to import a certain quantity of sorghum into Spain;

Whereas Commission Regulation (EC) No 1839/95 of 26 July 1995 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal⁽³⁾, as amended by Regulation (EC) No 1963/95⁽⁴⁾, lays down the rules governing the administration of those special arrangements; whereas this Regulation lays down the special additional detailed rules necessary for implementing the invitation to tender, in particular those relating to the lodging and release of the security to be lodged by operators to ensure compliance with their obligations and, in particular the obligation to process or use the imported product on the Spanish market;

Whereas Council Regulation (EEC) No 715/90 of 5 March 1990 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the ACP States or in the overseas countries and territories (OCT)⁽⁵⁾, as last amended by Regulation (EC) No 619/96⁽⁶⁾, provides in particular for a reduction of 60 % in the duty applicable to grain sorghum up to a quota of 100 000 tonnes per calendar year and of 50 % in excess of that quota; whereas, if that benefit is combined with the reduction provided for under this Regulation, this is likely to disturb the Spanish market for cereals; whereas such

combined benefits should be ruled out for the sake of the satisfactory functioning of the invitation to tender;

Whereas in the light of current market needs in Spain an invitation to tender for the reduction in the duty on imports of sorghum should be opened in the framework of these special arrangements for imports;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. An invitation to tender is hereby opened for the reduction in the import duty referred to in Article 10 (2) of Regulation (EEC) No 1766/92 on sorghum to be imported into Spain.
2. Under this invitation to tender, the reduction in the import duty on grain sorghum provided for in Article 11 of Regulation (EEC) No 715/90 shall not apply.
3. The invitation to tender shall be open until 26 February 1998. During that period, weekly invitations shall be issued with quantities and closing dates as shown in the notice of invitation to tender.
4. Regulation (EC) No 1839/95 shall apply save as otherwise provided for in this Regulation.

Article 2

Import licences issued under these invitations to tender shall be valid 50 days from the date they are issued, within the meaning of Article 10 (4) of Regulation (EC) No 1839/95.

Article 3

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

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 177, 28. 7. 1995, p. 4.

⁽⁴⁾ OJ L 189, 10. 8. 1995, p. 22.

⁽⁵⁾ OJ L 84, 30. 3. 1990, p. 85.

⁽⁶⁾ OJ L 89, 10. 4. 1996, p. 1.

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

Done at Brussels, 15 December 1997.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 2505/97

of 15 December 1997

opening an invitation to tender for the reduction in the duty on maize imported into Spain from third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 923/96⁽²⁾, and in particular Article 12 (1) thereof,

Whereas, pursuant to the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations, the Community has undertaken to import a certain quantity of maize into Spain;

Whereas Commission Regulation (EC) No 1839/95 of 26 July 1995 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal⁽³⁾, as amended by Regulation (EC) No 1963/95⁽⁴⁾, lays down the rules governing the administration of those special arrangements; whereas this Regulation lays down the special additional detailed rules necessary for implementing the invitation to tender, in particular those relating to the lodging and release of the security to be lodged by operators to ensure compliance with their obligations and, in particular, the obligation to process or use the imported product on the Spanish market;

Whereas in the light of current market needs in Spain, an invitation to tender for the reduction in the duty on imports of maize should be opened in the framework of these special arrangements for imports;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. An invitation to tender is hereby opened for the reduction in the import duty referred to in Article 10 (2) of Regulation (EEC) No 1766/92 on maize to be imported into Spain.
2. The invitation to tender shall be open until 26 February 1998. During that period, weekly invitations shall be issued with quantities and closing dates as shown in the notice of invitation to tender.
3. Regulation (EC) No 1839/95 shall apply save as otherwise provided for in this Regulation.

Article 2

Import licences issued under these invitations to tender shall be valid 50 days from the date they are issued, within the meaning of Article 10 (4) of Regulation (EC) No 1839/95.

Article 3

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

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

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 177, 28. 7. 1995, p. 4.

⁽⁴⁾ OJ L 189, 10. 8. 1995, p. 22.

COMMISSION REGULATION (EC) No 2506/97
of 15 December 1997

opening an invitation to tender for the reduction in the duty on maize imported
into Portugal from third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 923/96⁽²⁾, and in particular Article 12 (1) thereof,

Whereas, pursuant to the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations, the Community has undertaken to import a certain quantity of maize into Portugal;

Whereas Commission Regulation (EC) No 1839/95 of 26 July 1995 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal⁽³⁾, as amended by Regulation (EC) No 1963/95⁽⁴⁾, lays down the rules governing the administration of those special arrangements; whereas this Regulation lays down the special additional detailed rules necessary for implementing the invitation to tender, in particular those relating to the lodging and release of the security to be lodged by operators to ensure compliance with their obligations and, in particular, the obligation to process or use the imported product on the Portuguese market;

Whereas in the light of current market needs in Portugal, an invitation to tender for the reduction in the duty on imports of maize should be opened in the framework of these special arrangements for imports;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. An invitation to tender is hereby opened for the reduction in the import duty referred to in Article 10 (2) of Regulation (EEC) No 1766/92 on maize to be imported into Portugal.
2. The invitation to tender shall be open until 30 April 1998. During that period, weekly invitations shall be issued with quantities and closing dates as shown in the notice of invitation to tender.
3. Regulation (EC) No 1839/95 shall apply save as otherwise provided for in this Regulation.

Article 2

Import licences issued under these invitations to tender shall be valid 50 days from the date they are issued, within the meaning of Article 10 (4) of Regulation (EC) No 1839/95.

Article 3

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

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

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 177, 28. 7. 1995, p. 4.

⁽⁴⁾ OJ L 189, 10. 8. 1995, p. 22.

COMMISSION REGULATION (EC) No 2507/97
of 15 December 1997
amending Regulation (EEC) No 689/92 fixing the procedure and conditions for
the taking-over of cereals by intervention agencies

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 689/92⁽³⁾, as last amended by Regulation (EC) No 1502/97⁽⁴⁾, lays down the conditions for accepting cereals into intervention and in particular provides for the possibility, in certain cases, of cereals offered for intervention being taken over on the basis of the weight set out in the accounts and verified by the volumetric method;

Whereas experience gained has shown that the allowable tolerance is insufficient; whereas it should be adjusted and the conditions governing the application of the volumetric method should accordingly be made stricter;

Whereas cereals may be bought in from 1 November throughout the Community; whereas this Regulation should accordingly apply from that date;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 689/92 is hereby amended as follows:

1. the second subparagraph of Article 3 (6) (a) is replaced by the following:

‘The representative of the intervention agency may also be the storer. In that case:

- within 45 days of take-over, the intervention agency shall itself conduct an inspection involving at least a volumetric check; any difference between

the quantity determined by weighing and that estimated in accordance with the volumetric method may not exceed 5 %,

- where the tolerance is not exceeded, the storer shall bear all costs relating to any difference observed, at a later weight check, with the weight entered in the accounts on take-over,
- where the tolerance is exceeded, the cereals shall be weighed forthwith. The costs of weighing shall be borne by the storer, where the weight determined is less than that recorded, or by the Member State, where it is more.’;

2. the second subparagraph of Article 3 (6) (b) is replaced by the following:

‘Where the first subparagraph is applied:

- the weight to be recorded shall be that entered in the stock records, adjusted, where appropriate, to take account of any difference between the moisture content determined on weighing and that determined on the basis of the representative sample,
- an inspection involving a volumetric check shall be conducted within 45 days of take-over by the intervention agency; the difference between the quantity determined by weighing and that estimated in accordance with the volumetric method may not exceed 5 %,

- where the tolerance is not exceeded, the storer shall bear all costs relating to any difference observed, at a later weight check with the weight entered in the accounts on take-over,

- where the tolerance is exceeded, the cereals shall be weighed forthwith. The costs of weighing shall be borne by the storer, where the weight determined is less than that recorded, or by the EAGGF, where it is more.’

Article 2

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

It shall apply to offers made from 1 November 1997.

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 74, 20. 3. 1992, p. 18.

⁽⁴⁾ OJ L 202, 30. 7. 1997, p. 47.

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

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 2508/97
of 15 December 1997

laying down detailed rules for the application to milk and milk products of the schemes provided for in the Europe Agreements between the Community and the Republic of Hungary, the Republic of Poland, the Czech Republic, the Slovak Republic, Bulgaria and Romania, the Agreements on free trade between the Community and the Baltic States and the Interim Agreement between the Community and the Republic of Slovenia, and repealing Regulations (EEC) No 584/92, (EC) No 1588/94, (EC) No 1713/95 and (EC) No 455/97

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3491/93 of 13 December 1993 on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part⁽¹⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3492/93 of 13 December 1993 on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part⁽²⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3296/94 of 19 December 1994 on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part⁽³⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3297/94 of 19 December 1994 on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other part⁽⁴⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3383/94 of 19 December 1994 on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part⁽⁵⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3382/94 of 19 December 1994 on certain procedures for applying the Europe Agreement establishing an association between

the European Communities and their Member States, of the one part, and Romania, of the other part⁽⁶⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 1275/95 of 29 May 1995 on certain procedures for applying the Agreement on free trade and trade related matters between the European Community, the European Atomic Energy Community and the European Coal and Steel Community, of the one part, and the Republic of Estonia, of the other part⁽⁷⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 1276/95 of 29 May 1995 on certain procedures for applying the Agreement on free trade and trade related matters between the European Community, the European Atomic Energy Community and the European Coal and Steel Community, of the one part, and the Republic of Latvia, of the other part⁽⁸⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 1277/95 of 29 May 1995 on certain procedures for applying the Agreement on free trade and trade related matters between the European Community, the European Atomic Energy Community and the European Coal and Steel Community, of the one part, and the Republic of Lithuania, of the other part⁽⁹⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 410/97 of 24 February 1997 on certain procedures for applying the Interim Agreement on trade and trade-related measures between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Slovenia, of the other part⁽¹⁰⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural

⁽¹⁾ OJ L 319, 21. 12. 1993, p. 1.

⁽²⁾ OJ L 319, 21. 12. 1993, p. 4.

⁽³⁾ OJ L 341, 30. 12. 1994, p. 14.

⁽⁴⁾ OJ L 341, 30. 12. 1994, p. 17.

⁽⁵⁾ OJ L 368, 31. 12. 1994, p. 5.

⁽⁶⁾ OJ L 368, 31. 12. 1994, p. 1.

⁽⁷⁾ OJ L 124, 7. 6. 1995, p. 1.

⁽⁸⁾ OJ L 124, 7. 6. 1995, p. 2.

⁽⁹⁾ OJ L 124, 7. 6. 1995, p. 3.

⁽¹⁰⁾ OJ L 62, 4. 3. 1997, p. 5.

concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations⁽¹⁾, as last amended by Regulation (EC) No 1595/97⁽²⁾, and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 1926/96 of 7 October 1996 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the agreements on free trade and trade-related matters with Estonia, Latvia and Lithuania, to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations⁽³⁾,

Whereas Commission Regulation (EEC) No 584/92 of 6 March 1992⁽⁴⁾, as last amended by Regulation (EC) No 1996/97⁽⁵⁾, lays down detailed rules for the application to milk and milk products of the schemes provided for in the Europe Agreements between the Community and the Republic of Poland, the Republic of Hungary, the Czech Republic and the Slovak Republic;

Whereas Commission Regulation (EC) No 1588/94 of 30 June 1994⁽⁶⁾, as last amended by Regulation (EC) No 1873/97⁽⁷⁾, lays down detailed rules for the application to milk and milk products of the schemes provided for in the Interim Agreements between the Community of the one part and Bulgaria and Romania of the other part;

Whereas Commission Regulation (EC) No 1713/95 of 13 July 1995⁽⁸⁾, as last amended by Regulation (EC) No 1996/97, lays down detailed rules for the application to milk and milk products of the schemes provided for in the Agreements on free trade between the Community and the Baltic States;

Whereas Commission Regulation (EC) No 455/97 of 10 March 1997⁽⁹⁾, as amended by Regulation (EC) No 1873/97, lays down detailed rules for the application to milk and milk products of the scheme provided for in the Interim Agreement between the Community and the Republic of Slovenia;

Whereas the conditions laid down in the above-mentioned Regulations governing the submission of import licence applications, the issue of licences and the other arrangements for the management of the import schemes are almost identical; whereas, in order to simplify the rules and ensure their uniform application to all the schemes, the detailed rules for the different schemes should be set out in a single consolidated Regulation and the above-mentioned Regulations should be abolished; whereas, at the same time, certain technical adjustments should be made to the management arrangements;

Whereas, to ensure that the volume of imports is managed correctly, a security should be lodged when import licences are applied for and the lodging of licence applications should be subject to certain conditions, which must be defined; whereas, moreover, the quantities fixed during the year should be staggered and the procedure for allocating licences and the period of validity of licences should be fixed;

Whereas all importers in the Community should be guaranteed access to the above-mentioned schemes and the reduced rate of duty should be applied without interruption to all imports of the products in question into all Member States until the quantities provided for have been exhausted; whereas the necessary measures should be taken to ensure efficient Community management of these quantities; whereas, in particular, the danger of speculation requires access to transactions under the schemes in question to be subject to specific conditions; whereas this form of management requires close collaboration between the Member States and the Commission;

Whereas, in the interest of clarity, the quantities of products available under the different schemes for the first six months of 1998 should be determined at the same time; whereas these quantities are fixed taking account of the quantities remaining from the previous period and, in the case of imports from the Baltic States, the quantities for which licences have been issued in excess of the quantities available for the third quarter of 1997;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation covers the following schemes for imports of milk products:

⁽¹⁾ OJ L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ L 216, 8. 8. 1997, p. 1.

⁽³⁾ OJ L 254, 8. 10. 1996, p. 1.

⁽⁴⁾ OJ L 62, 7. 3. 1992, p. 34.

⁽⁵⁾ OJ L 282, 15. 10. 1997, p. 11.

⁽⁶⁾ OJ L 167, 1. 7. 1994, p. 8.

⁽⁷⁾ OJ L 265, 27. 9. 1997, p. 23.

⁽⁸⁾ OJ L 163, 14. 7. 1995, p. 5.

⁽⁹⁾ OJ L 69, 11. 3. 1997, p. 7.

- (a) the schemes provided for in Regulation (EC) No 3066/95 applicable to certain agricultural products originating in Hungary, Poland, the Czech Republic, the Slovak Republic, Romania and Bulgaria;
- (b) the schemes provided for in Regulation (EC) No 1926/96 applicable to certain agricultural products originating in Estonia, Latvia and Lithuania;
- (c) the scheme provided for in Article 15 (2) of the Interim Agreement between the European Community and Slovenia.

2. All imports into the Community of milk products falling within the CN codes set out in Annex I under the schemes referred to in paragraph 1 shall be subject to the presentation of an import licence applied for and issued in accordance with this Regulation.

3. The quantities of products to which these schemes apply and the rate of reduction in the customs duties shall be those listed in Annex I.

4. For the purposes of this Regulation, the product or products originating in a country for which an annual quantity is provided for in Annex I shall be called a 'group of products'.

Article 2

1. For the purposes of this Regulation, 'import year' shall mean:

- the 12-month period from 1 July for the schemes referred to in Article 1 (1) (a) and (b),
- the calendar year for the scheme referred to in Article 1 (1) (c).

2. The quantities indicated in Annex I shall be staggered over the import year as follows:

- 50 % during the six months from 1 January to 30 June,
- 50 % during the the six months from 1 July to 31 December.

However, the quantities available for the first six months of 1998 shall be those listed in Annex 1A.

Article 3

The following provisions shall apply to the import schemes referred to in Article 1 (1).

- (a) At the time applications are submitted, applicants for import licences must prove to the satisfaction of the competent authorities of the Member State concerned that they have been importing and/or exporting milk or milk products into and/or out of the Community for at least the last 12 months. However, retail establishments or restaurants selling their products to

final consumers are excluded from the benefits of the schemes.

- (b) Licence applications may relate to one or more of the CN codes listed in Annex I for the same group of products and must indicate the quantity applied for under each different code. However, a separate licence shall be issued for each different product code.

Licence applications must relate to at least 10 tonnes and to a maximum of 25 % of the quantity available for the group of products for the period concerned.

- (c) Section 8 of licence applications and licences shall show the country of origin; licences shall carry with them an obligation to import from the country indicated;

- (d) Section 20 of licence applications and licences shall show one of the following:

- Reglamento (CE) n° 2508/97
- Forordning (EF) nr. 2508/97
- Verordnung (EG) Nr. 2508/97
- Κανονισμός (ΕΚ) αριθ. 2508/97
- Regulation (EC) No 2508/97
- Règlement (CE) n° 2508/97
- Regolamento (CE) n. 2508/97
- Verordening (EG) nr. 2508/97
- Regulamento (CE) n° 2508/97
- Asetus (EY) N:o 2508/97
- Förordning (EG) nr 2508/97;

- (e) Section 24 of licences shall show one of the following:

- Reducción del derecho de aduana establecida en el Reglamento (CE) n° 2508/97
- Nedsættelse, jf. forordning (EF) nr. 2508/97, af toldsatsen
- Zollermäßigung gemäß der Verordnung (EG) Nr. 2508/97
- Μείωση του δασμού όπως προβλέπεται από τον κανονισμό (ΕΚ) αριθ. 2508/97
- Duty rate reduced in accordance with Regulation (EC) No 2508/97
- Réduction du taux de droit de douane prévue par le règlement (CE) n° 2508/97
- Riduzione del dazio doganale a norma del regolamento (CE) n. 2508/97
- Douanerecht verlaagd overeenkomstig Verordening (EG) nr. 2508/97
- Redução da taxa de direito aduaneiro prevista no Regulamento (CE) n° 2508/97
- Vähennetty tullimaksu asetuksen (EY) N:o 2508/97 mukaisesti
- Nedsättning av tullsatsen enligt förordning (EG) nr 2508/97.

Article 4

1. Licence applications may be lodged only during the first 10 days of each period as specified in Article 2 (2).

2. Licence applications shall be admissible only where applicants declare in writing that they have not submitted, and undertake not to submit, any other applications, in respect of the current period, concerning the same group of products in the Member State in which their application is lodged or in other Member States; where the same interested party submits more than one application relating to the same group of products, all applications from that person shall be inadmissible.

3. Member States shall notify the Commission, on the fifth working day following the end of the application period, of applications lodged for each of the products listed in Annex I. Such notification shall comprise the list of applicants, the quantities applied for by CN code, the countries of origin and a summary table showing the country of origin, the CN code and the total quantity applied for by CN code. All notifications, including notifications of nil applications, shall be made by telex or fax on the working day stipulated, in accordance with the model set out in Annex II where no application is made and with the models set out in Annexes II and III where applications have been made.

4. The Commission shall decide as soon as possible to what extent quantities may be awarded in respect of applications as referred to in Article 3.

If the quantities for which licence applications have been submitted exceed the quantities available for the group of products in question, the Commission shall fix a single allocation coefficient for the quantities applied for. If applicants deem the quantity obtained by applying the coefficient to be insufficient, they may refrain from using the licence. In that case they shall notify the competent authority of this decision within three working days following publication of the decision referred to in the previous subparagraph. The competent authority shall inform the Commission forthwith of the details of this notification. Where the overall quantity for which applications have been submitted is less than the quantity available in respect of each CN code and country, the Commission shall calculate the quantity remaining, which shall be added to the quantity available in respect of the following period in the same import year.

5. The licences shall be issued as soon as possible after the Commission has taken its decision to those applicants whose applications have been notified in accordance with paragraph 3.

Article 5

Pursuant to Article 21 (2) of Regulation (EEC) No 3719/88, import licences shall be valid for 150 days from the date of actual issue.

However, licences shall not be valid after the end of the import year for which they are issued.

Import licences issued pursuant to this Regulation shall not be transferable.

Article 6

A security of ECU 35 per 100 kilograms shall be lodged for import licence applications for all products referred to in Article 1.

Article 7

1. Regulation (EEC) No 3719/88 shall apply unless this Regulation provides otherwise.

2. Without prejudice to Article 8 (4) of 3719/88, the full import duty provided for in the Common Customs Tariff (CCT) shall be levied on all quantities in excess of those indicated on the import licence.

Article 8

The products to which the schemes provided for in Article 1 (1) (a) and (b) apply shall be released for free circulation on presentation of an EUR.1 certificate issued by the exporting country in accordance with Protocol 4 to the Agreements concluded between the Community and the countries concerned, or of a declaration by the exporter in accordance with the said Protocol.

Article 9

Regulations (EEC) No 584/92, (EC) No 1588/94, (EC) No 1713/95 and (EC) No 455/97 are hereby repealed. However, these Regulations shall continue to apply to import licences issued before 1 January 1988.

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

It shall apply from 1 January 1998.

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

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

A. Products originating in Poland

Order number	CN code	Product description (1)	Rate of duty applicable (% of MFN duty)	Annual quantities (tonnes)			
				From 1.7.1997 to 30.6.1998	From 1.7.1998 to 30.6.1999	From 1.7.1999 to 30.6.2000	From 1.7.2000 on
09.4813	0402 10 19	Skimmed-milk powder	20	5 500	5 750	6 000	6 250
	0402 21 19	Whole milk powder					
	0402 21 99	Whole milk powder					
09.4814	0405 10 11	Butter and dairy spreads	20	1 540	1 610	1 680	1 750
	0405 10 19						
	0405 10 30						
	0405 10 50						
	0405 10 90						
0405 20 90							
09.4815	0406	Cheese and curd	20	3 080	3 220	3 360	3 500

B. Products originating in the Czech Republic

Order number	CN code	Product description (1)	Rate of duty applicable (% of MFN duty)	Annual quantities (tonnes)			
				From 1.7.1997 to 30.6.1998	From 1.7.1998 to 30.6.1999	From 1.7.1999 to 30.6.2000	From 1.7.2000 on
09.4611	0402 10 19	Skimmed-milk powder	20	2 530	2 645	2 760	2 875
	0402 21 19	Whole milk powder					
	0402 21 91	Whole milk powder					
09.4612	0405 10 11	Butter	20	1 100	1 150	1 200	1 250
	0405 10 19						
	0405 10 30						
	0405 10 50						
09.4613	0406	Cheese and curd	20	1 760	1 840	1 920	2 000

C. Products originating in the Slovak Republic

Order number	CN code	Product description (°)	Rate of duty applicable (% of MFN duty)	Annual quantities (tonnes)			
				From 1.7.1997 to 30.6.1998	From 1.7.1998 to 30.6.1999	From 1.7.1999 to 30.6.2000	From 1.7.2000 on
09.4611	0402 10 19 0402 21 19 0402 21 91	Skimmed-milk powder Whole milk powder Whole milk powder	20	1 320	1 380	1 440	1 500
09.4612	0405 10 11 0405 10 19 0405 10 30 0405 10 50	Butter	20	660	690	720	750
09.4613	0406	Cheese and curd	20	1 540	1 610	1 680	1 760

D. Products originating in Hungary

Order number	CN code	Product description (°)	Rate of duty applicable (% of MFN duty)	Annual quantities (tonnes)			
				From 1.7.1997 to 30.6.1998	From 1.7.1998 to 30.6.1999	From 1.7.1999 to 30.6.2000	From 1.7.2000 on
09.4731	0402 10	Milk and cream, in powder, granules or other solid forms, of a fat content, by weight, not exceeding 1,5 %	Exempt	330	345	360	375
09.4732	0406 90 29	Kashkaval	ECU 1 910/t	200	200	200	200
09.4733	0406	Cheese and curd	20	2 200	2 300	2 400	2 500

E. Products originating in Romania

Order No	CN code	Description (1)	Rate of duties applicable (% of MFN duties)	Annual quantities (tonnes)		
				From 1 July 1997 to 30 June 1998	From 1 July 1998 to 30 June 1999	From 1 July 1999 to 30 June 2000
09.4758	0406	Cheeses and curd cheeses	20	1 784	1 859	1 800
						From 1 July 2000 1 875

F. Products originating in Bulgaria

Order No	CN code	Description (1)	Rate of duties applicable (% of MFN duties)	Annual quantities (tonnes)		
				From 1 July 1997 to 30 June 1998	From 1 July 1998 to 30 June 1999	From 1 July 1999 to 30 June 2000
09.4660	0406	Cheeses and curd cheeses	20	4 840	5 060	5 280
						From 1 July 2000 5 500

G. Products originating in Estonia

Order number	CN code	Description (1)	Duty applicable (% of MFN)	Annual quantities (tonnes)				
				From 1.7.1996 to 30.6.1997	From 1.7.1997 to 30.6.1998	From 1.7.1998 to 30.6.1999	From 1.7.1999 to 30.6.2000	From 1.7.2000
09.4546	0402 10 19 0402 21 19	Skimmed-milk powder Whole-milk powder	20	3 150	3 300	3 450	3 600	3 750
09.4547	0405 10 11 0405 10 19	Butter	20	1 575	1 650	1 725	1 800	1 875
09.4548	0406	Cheeses	20	840	880	920	960	1 000

H. Products originating in Latvia

Order number	CN code	Description (1)	Duty applicable (% of MFN)	Annual quantities (tonnes)				
				From 1.7.1996 to 30.6.1997	From 1.7.1997 to 30.6.1998	From 1.7.1998 to 30.6.1999	From 1.7.1999 to 30.6.2000	From 1.7.2000
09.4549	0402 10 19 0402 21 19	Skimmed-milk powder Whole-milk powder	20	2 625	2 750	2 875	3 000	3 125
09.4550	ex 0402 29	Milk or cream other than in powder, containing added sugar	20	210	220	230	240	250
09.4551	0405 10	Butter	20	1 405	990	1 035	1 080	1 125
09.4552	0406	Cheeses	20	1 260	1 320	1 380	1 440	1 500

I. Products originating in Lithuania

Order Number	CN code	Description (1)	Duty applicable (% of MFN)	Annual quantity (tonnes)				
				From 1.7.1996 to 30.6.1997	From 1.7.1997 to 30.6.1998	From 1.7.1998 to 30.6.1999	From 1.7.1999 to 30.6.2000	From 1.7.2000
09.4554	0402 10 19 0402 21 19	Skimmed-milk powder Whole-milk powder	20	3 675	3 850	4 025	4 200	4 375
09.4567	0402 99 11	Milk or cream, condensed, containing added sugar	20	220	240	260	280	300
09.4556	0405 10 11 0405 10 19	Butter	20	1 260	1 320	1 380	1 440	1 500
09.4557	0406	Cheeses	20	1 470	1 540	1 610	1 680	1 750

K. Products originating in Slovenia

Order Number	CN code	Description of goods (1)	Duty applicable (% of MFN)	Annual quantities (tonnes)					
				1997	1998	1999	2000	2001	2002
09.4086	0402 0402 10 0402 21	Skimmed-milk powder Milk powder	20	1 000	1 100	1 200	1 300	1 400	1 500
09.4087	0403 10	Yoghurts	20	500	550	600	650	700	750
09.4088	0406 90	Other cheeses	20	300	330	360	390	420	450

(1) Irrespective of the rules for the interpretation of the combined nomenclature, the wording of the product description must be considered to have merely indicative value, since the applicability of the preferential arrangements is determined in the context of this Annex by the scope of the CN code. Where ex CN codes are referred to the applicability of the preferential arrangements is determined on the basis of the CN code and the corresponding description taken jointly.

ANNEX I.A

Total quantity in tonnes available for 1 January to 30 June 1998

Country	Poland			Czech Republic			Slovak Republic				Hungary		
	0402 10 19 0402 21 19 0402 21 99	0405 10 11 0405 10 19 0405 10 30 0405 10 50 0405 10 90 0405 20 90	0406	0402 10 19 0402 21 19 0402 21 91	0405 10 11 0405 10 19 0405 10 30 0405 10 50	0406	0402 10 19 0402 21 19 0402 21 91	0405 10 11 0405 10 19 0405 10 30 0405 10 50	0406	0402 10 10	0406 90 29	0406	0406 90 29
serial number	09.4813	09.4814	09.4815	09.4611	09.4612	09.4613	09.4611	09.4612	09.4613	09.4731	09.4732	09.4733	09.4733
Available quantity	2 750	770	2 365,052	1 265	550	1 151,7	661,741	332,27	834,033	214,875	200	2 023,4	2 023,4

Country	Republic of Estonia			Republic of Latvia			Republic of Lithuania			
	0402 10 19 0402 21 19	0405 10 11 0405 10 19	0406	0402 10 19 0402 21 19	0405 10 10 0405 10 19	0406	0402 10 19 0402 21 19	0405 10 11 0405 10 19	0406	
serial number	09.4546	09.4547	09.4548	09.4549	09.4551	09.4552	09.4554	09.4556	09.4557	
Available quantity	1 647,737	811,39	880	1 382,754	485,347	769,23	1 916,338	650,925	861,438	240

Country	Slovenia		
	0402 10 19 0402 21 19	0403 10 10 0403 10 19	0406 90
serial number	09.4758	09.4660	09.4087
Available quantity	1 710,8	4 838,704	165

ANNEX II

Application of Regulation (EC) No 2508/97

(Page /)

COMMISSION OF THE EUROPEAN COMMUNITIES
DG VI/D/1 — MILK AND MILK PRODUCTS

REQUESTS FOR IMPORT LICENCES AT REDUCED DUTY RATE

... SIX MONTHS OF 199 .

Member State:

Date:

Commission Regulation (EC) No/97

Sender:

Contact:

Telephone No:

Telefax No:

Number of pages:

Order No of requests:

Total quantity requested (in tonnes):

Summary

Country of origin	CN code	Quantity applied for per CN code
Subtotal		

ANNEX III

Application of Regulation (EC) No 2508/97

(Page /)

COMMISSION OF THE EUROPEAN COMMUNITIES
DG VI/D/1 — MILK AND MILK PRODUCTS

REQUESTS FOR IMPORT LICENCES AT REDUCED DUTY RATE

... SIX MONTHS OF 199.

Order No:

Member State:

CN code	No	Declarer (Name and address)	Quantity (tonnes)	Country of origin
Total tonnes, order No				

COMMISSION REGULATION (EC) No 2509/97
of 15 December 1997
amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and
statistical nomenclature and on the Common Customs Tariff

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, as last amended by Commission Regulation (EC) No 2308/97⁽²⁾, and in particular Article 9 thereof,

Whereas in Regulation (EEC) No 2658/87, as amended by Commission Regulation (EC) No 1359/95⁽³⁾, the distinction between products falling within CN code 2106 and CN code 2208 10 00 was laid down by the alcoholic strength by volume of 0,5 % vol;

Whereas by the change of the Harmonized System on 1 January 1996, the 'compound alcoholic preparations of a kind used for the manufacture of beverages' are moved from heading 2208 to heading 2106 and 3302 respectively;

Whereas it seems to be necessary to reintroduce the distinction between 'compound alcoholic preparations, other than those based on odoriferous substances of a kind used for the manufacture of beverages of CN code 2106 90 20' having a alcoholic strength by volume of more than 0,5 % vol and those preparations having an alcoholic strength by volume not exceeding 0,5 % vol;

Whereas the provisions of this Regulation are in accordance with the opinion of the Customs Code Committee, Tariff and Statistical Nomenclature Section,

HAS ADOPTED THIS REGULATION:

Article 1

Chapter 21 of the combined nomenclature annexed to Regulation (EEC) No 2658/87 is hereby amended as follows:

— additional Note 4 is inserted:

'4. For the purposes of subheading 2106 90 20 "compound alcoholic preparations, other than those based on odoriferous substances, of a kind used for the manufacture of beverages" means those preparations having a alcoholic strength by volume of more than 0,5 % vol.'

— the existing notes 4 and 5 are renumbered 5 and 6.

Article 2

This Regulation shall enter into force on the 21st day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 15 December 1997.

For the Commission

Mario MONTI

Member of the Commission

⁽¹⁾ OJ L 256, 7. 9. 1987, p. 1.

⁽²⁾ OJ L 321, 22. 11. 1997, p. 1.

⁽³⁾ OJ L 142, 26. 6. 1995, p. 1.

COMMISSION REGULATION (EC) No 2510/97
of 15 December 1997
concerning the classification of certain goods in the combined nomenclature

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87⁽¹⁾ on the tariff and statistical nomenclature and on the Common Customs Tariff, as last amended by Regulation (EC) No 2308/97⁽²⁾, and in particular Article 9 thereof,

Whereas in order to ensure uniform application of the combined nomenclature annexed to the said Regulation, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation;

Whereas Regulation (EEC) No 2658/87 has set down the general rules for the interpretation of the combined nomenclature and those rules also apply to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific Community provisions, with a view to the application of tariff and other measures relating to trade in goods;

Whereas, pursuant to the said general rules, the goods described in column 1 of the table annexed to the present Regulation must be classified under the appropriate CN codes indicated in column 2, by virtue of the reasons set out in column 3;

Whereas it is accepted that binding tariff information issued by the customs authorities of Member States in respect of the classification of goods in the combined

nomenclature and which do not conform to the rights established by this Regulation, can continue to be invoked, under the provisions in Article 12 (6) of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽³⁾, for a period of three months by the holder;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Tariff and Statistical Nomenclature Section of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column 1 of the annexed table are now classified within the combined nomenclature under the appropriate CN codes indicated in column 2 of the said table.

Article 2

Binding tariff information issued by the customs authorities of Member States which do not conform to the rights established by this Regulation can continue to be invoked under the provisions of Article 12 (6) of Regulation (EEC) No 2913/92 for a period of three months.

Article 3

This Regulation shall enter into force on the 21st day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 15 December 1997.

For the Commission

Mario MONTI

Member of the Commission

⁽¹⁾ OJ L 256, 7. 9. 1987, p. 1.

⁽²⁾ OJ L 321, 22. 11. 1997, p. 1.

⁽³⁾ OJ L 302, 19. 10. 1992, p. 1.

ANNEX

Description of goods	CN code	Reasons
(1)	(2)	(3)
1. Yellowish spreadable emulsion consisting of: <i>(% by weight)</i> <hr/> butter 77,5 salt 7,7 sugar 3,1 potato starch 4,65 parsley 6,2 other flavourings 0,85 <hr/> The milkfat content averages 60 to 62 % by weight.	0405 20 30	Classification is determined by General Rules 1 and 6 for the interpretation of the combined nomenclature, Note 2 (b) to Chapter 4 and the wording of CN codes 0405, 0405 20 and 0405 20 30.
2. Spelt wheat (<i>Triticum spelta</i> L.) from which the spelt (but not the pericarp) has been removed.	1104 29 19	Classification is determined by General Rules 1 and 6 for the interpretation of the combined nomenclature, by Note 1 (b) to Chapter 10 and by the wording of CN codes 1104, 1104 29 and 1104 29 19.
3. Yeast (<i>Saccharomyces cerevisiae</i>), rendered 95 % inactive by drying. The product is of a kind used in animal fodder.	2102 29 19	Classification is determined by General Rules 1 and 6 for the interpretation of the combined nomenclature and by the wording of CN codes 2102, 2102 20 and 2102 20 19. The removal of the spelt, even without damaging the pericarp, excludes the product from Chapter 10. See also Harmonized System Explanatory Notes, heading 21.02, paragraph 4.

COMMISSION REGULATION (EC) No 2511/97

of 15 December 1997

establishing the standard import values for determining the entry price of certain fruit and vegetables

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

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 2375/96 ⁽²⁾, and in particular Article 4 (1) thereof,

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

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third

countries, in respect of the products and periods stipulated in the Annex thereto;

Whereas, in compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 16 December 1997.

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

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 15 December 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	61,0
	624	167,6
	999	114,3
0707 00 40	052	79,0
	624	134,7
	999	106,8
0709 10 40	220	211,4
	999	211,4
0709 90 79	052	99,7
	204	146,6
	999	123,2
0805 10 61, 0805 10 65, 0805 10 69	052	30,4
	204	44,7
	388	29,6
	448	28,6
	528	44,4
	999	35,5
0805 20 31	052	76,7
	204	55,0
	999	65,8
0805 20 33, 0805 20 35, 0805 20 37, 0805 20 39	052	67,9
	999	67,9
0805 30 40	052	87,5
	400	60,0
	600	83,5
	999	77,0
0808 10 92, 0808 10 94, 0808 10 98	060	45,2
	064	42,0
	400	87,5
	404	84,9
	512	39,2
	804	84,0
	999	63,8
0808 20 67	064	88,2
	400	101,5
	999	94,8

⁽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 2512/97
of 15 December 1997
fixing the import duties in the cereals sector

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector⁽³⁾, as last amended by Regulation (EC) No 2092/97⁽⁴⁾, and in particular Article 2 (1) thereof,

Whereas Article 10 of Regulation (EEC) No 1766/92 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 55 %, minus the cif import price applicable to the consignment in question;

Whereas, pursuant to Article 10 (3) of Regulation (EEC) No 1766/92, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market;

Whereas Regulation (EC) No 1249/96 lays down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals 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 for the reference exchange referred to in Annex II to Regulation (EC) No 1249/96 during the two weeks preceding the next periodical fixing;

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

Whereas application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the cereals sector referred to in Article 10 (2) of Regulation (EEC) No 1766/92 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 16 December 1997.

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

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 161, 29. 6. 1996, p. 125.

⁽⁴⁾ OJ L 292, 25. 10. 1997, p. 10.

ANNEX I

Import duties for the products listed in Article 10 (2) of Regulation (EEC) No 1766/92

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (ECU/tonne)	Import duty by air or by sea from other ports ⁽²⁾ (ECU/tonne)
1001 10 00	Durum wheat ⁽¹⁾	0,00	0,00
1001 90 91	Common wheat seed	30,50	20,50
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	30,50	20,50
	medium quality	48,99	38,99
	low quality	57,83	47,83
1002 00 00	Rye	73,57	63,57
1003 00 10	Barley, seed	73,57	63,57
1003 00 90	Barley, other ⁽³⁾	73,57	63,57
1005 10 90	Maize seed other than hybrid	79,07	69,07
1005 90 00	Maize other than seed ⁽³⁾	79,07	69,07
1007 00 90	Grain sorghum other than hybrids for sowing	73,57	63,57

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

⁽²⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2 (4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

- ECU 3 per tonne, where the port of unloading is on the Mediterranean Sea, or
- ECU 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

⁽³⁾ The importer may benefit from a flat-rate reduction of ECU 14 or 8 per tonne, where the conditions laid down in Article 2 (5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(period from 1 December 1997 to 12 December 1997)

1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas City	Chicago	Chicago	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	US barley 2
Quotation (ECU/tonne)	127,36	119,98	116,69	98,32	214,81 (¹)	100,68 (¹)
Gulf premium (ECU/tonne)	—	-15,55	10,00	7,14	—	—
Great Lakes premium (ECU/tonne)	16,39	—	—	—	—	—

(¹) Fob Duluth.

2. Freight/cost: Gulf of Mexico — Rotterdam: ECU 13,31 per tonne; Great Lakes — Rotterdam: ECU 23,59 per tonne.

3. Subsidy within the meaning of the third paragraph of Article 4 (2) of Regulation (EC) No 1249/96: ECU 0,00 per tonne (HRW2)
: ECU 0,00 per tonne (SRW2).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 11 December 1997

laying down the procedure for adopting the Community's position in the Customs Union Joint Committee set up by Decision No 1/95 of the EC-Turkey Association Council on implementation of the final phase of the Customs Union

(97/833/EC)

THE COUNCIL OF THE EUROPEAN UNION,

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

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

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas Decision No 1/95 ⁽³⁾ of the EC-Turkey Association Council established a Customs Union Joint Committee; whereas that Committee is empowered to frame recommendations to the Association Council and has decision-making powers in the cases provided for by the said Decision;

Whereas for the purposes of Joint Committee proceedings it is necessary to lay down rules for the adoption of common positions on the basis of which the Community, represented on the Joint Committee by the Commission, can enter into commitments *vis-à-vis* Turkey;

Whereas the Joint Committee's task is to ensure the proper functioning of the Customs Union and freedom of trade between the Parties; whereas common positions to be adopted by the Community accordingly fall within the scope of Article 113 of the Treaty, and the procedure provided for by that Article should as a rule apply;

Whereas it is necessary, however, to provide that common positions relating to the application of Community legislation and any associated technical adjustments or to the

assessment of anti-competitive behaviour should be adopted by the Commission,

HAS ADOPTED THIS DECISION:

Article 1

Subject to Article 2, the position to be taken by the Community in the Customs Union Joint Committee shall be adopted by the Council, acting by a qualified majority on a proposal from the Commission.

Article 3

The position to be taken by the Community in the Customs Union Joint Committee shall be adopted by the Commission where the said position relates to the simple transposition into the Customs Union of acts of Community law, if necessary by means of technical adjustments, or to the assessment of anti-competitive behaviour. The annual report by the Commission on the implementation of the Customs Union shall also inform the European Parliament of decisions taken by the Joint Committee.

Article 3

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

Done at Brussels, 11 December 1997.

For the Council

The President

M. DELVAUX-STEHRÉS

⁽¹⁾ OJ C 84, 21. 3. 1996, p. 14.

⁽²⁾ Opinion delivered on 18 November 1997 (not yet published in the Official Journal).

⁽³⁾ OJ C 35, 13. 2. 1996, p. 1.

COMMISSION

COMMISSION DECISION

of 3 December 1997

approving an amendment to the additional varietal conversion programme for hops submitted by Belgium pursuant to Council Regulation (EEC) No 2997/87

(Only the Dutch and French texts are authentic)

(97/834/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2997/87 of 22 September 1987 laying down, in respect of hops, the amount of aid to producers for the 1986 harvest and providing for special measures for certain regions of production⁽¹⁾, as last amended by Regulation (EEC) No 423/95⁽²⁾, and in particular Article 2 (5) thereof,

Having regard to Commission Regulation (EEC) No 3889/87 of 22 December 1987 laying down detailed rules for the application of the special measures for certain regions of hops production⁽³⁾, as last amended by Regulation (EEC) No 718/93⁽⁴⁾, and in particular Article 3 thereof,

Whereas, pursuant to Article 2 (5) of Regulation (EEC) No 2997/87, Belgium transmitted to the Commission on 10 March 1988 a varietal conversion programme for hops; whereas the programme as amended on 26 July 1988 was approved by Commission Decision 88/606/EEC⁽⁵⁾; whereas, after having been amended three times by Decisions 89/480/EEC⁽⁶⁾, 91/94/EEC⁽⁷⁾ and 92/149/EEC⁽⁸⁾, the programme was closed on 31 December 1992;

Whereas, pursuant to Article 1 (2) of Regulation (EEC) No 3889/87, Belgium forwarded to the Commission on 29 December 1992 an additional varietal conversion programme which is different from the previous one in that it includes a new, recently recognized producer group, covers new areas and is more directly oriented to super-alpha varieties better adapted to market requirements; whereas the additional programme was approved by Commission Decision 93/251/EEC⁽⁹⁾;

Whereas on 21 December 1993 Belgium submitted amendments to the additional programme to the Commission;

Whereas the amendments proposed involve mainly increasing yet more the proportion of super-alpha varieties within the range of varieties being planted under the conversion plan and to expanding the areas covered by conversion; whereas the amended programme was approved by Commission Decision 94/144/EC⁽¹⁰⁾;

Whereas on 23 July 1997 Belgium submitted further amendments to that programme to the Commission;

Whereas the amendments proposed concern the transfer — between producer groups which are members of the same association — of areas eligible for varietal conversion, the total area envisaged for Belgium remaining unchanged;

Whereas the additional programme as amended satisfies the objectives of the Regulation in question and contains the information required pursuant to Article 2 of Regulation (EEC) No 3889/87;

⁽¹⁾ OJ L 284, 7. 10. 1987, p. 19.

⁽²⁾ OJ L 45, 1. 3. 1995, p. 1.

⁽³⁾ OJ L 365, 24. 12. 1987, p. 41.

⁽⁴⁾ OJ L 74, 27. 3. 1993, p. 46.

⁽⁵⁾ OJ L 334, 6. 12. 1988, p. 26.

⁽⁶⁾ OJ L 234, 11. 8. 1989, p. 52.

⁽⁷⁾ OJ L 50, 23. 2. 1991, p. 28.

⁽⁸⁾ OJ L 61, 6. 3. 1992, p. 31.

⁽⁹⁾ OJ L 115, 11. 5. 1993, p. 28.

⁽¹⁰⁾ OJ L 62, 5. 3. 1994, p. 44.

Whereas the special aid for varietal conversion may also be granted for areas under other varieties where the latter are present on areas essentially under bitter varieties covered by a conversion plan;

Whereas the financial contribution chargeable to the national budget complies with the ceiling set out in Article 2 (2) of Regulation (EEC) No 2997/87; whereas the actual costs referred to in Article 2 (2) of Regulation (EEC) No 2997/87 may include estimates of the net loss of income resulting from the implementation of a conversion plan; whereas, however, only those estimates which relate to the net loss of income suffered from the date of adoption of Regulation (EEC) No 2997/87 may figure in the calculation of the actual costs; whereas the Member State's financial contribution to the varietal conversion programme should be adjusted accordingly;

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

HAS ADOPTED THIS DECISION:

Article 1

The varietal conversion programme for hops, submitted pursuant to Regulation (EEC) No 2997/87 by Belgium on 23 July 1997, is hereby approved. The main aspects of the programme are given in the Annex hereto.

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 3 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

1. List of producer groups covered by the programme

- Pacohop SV,
- De Poperingse Hopproducenten Vereniging,
- De Nieuwe Hoptelersbelangengroep (NHBG).

The first two groups are represented by Febelhop (association of producer groups).

2. Duration of programme

From 1993 to 1996. The last plantings must be carried out before 31 December 1996.

3. Areas covered by the programme

Pacohop SV:	20,2829 ha
De Poperingse Hopproducenten Vereniging:	84,0994 ha
De Nieuwe Hoptelersbelangengroep:	40,6115 ha
Total	145,3974 ha

4. Varieties to be planted and areas concerned

Aromatic varieties

Hallertauer Mittelfrühe	0,1104 ha
Goldings	1,4034 ha
Challenger	12,7461 ha
Fuggles	0,6404 ha
WGV	0,2156 ha
Total	15,1159 ha

Super-alpha varieties

Yeoman	0,5532 ha
Target	110,8867 ha
Nugget	3,0419 ha
Hallertauer Magnum	15,7997 ha
Total	130,2815 ha

COMMISSION DECISION

of 3 December 1997

amending Decisions 93/24/EEC and 93/244/EEC and concerning additional guarantees relating to Aujeszky's disease for pigs destined for regions free of the disease in Germany

(Text with EEA relevance)

(97/835/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 64/432/EEC of 26 June 1964, on animal health problems affecting intra-Community trade in bovine animals and swine⁽¹⁾, as last amended and updated by Directive 97/12/EC⁽²⁾, and in particular Article 10 (2) thereof,

Whereas Germany considers that part of its territory is free from Aujeszky's disease and has submitted supporting documentation to the Commission as provided for in Article 10 of Council Directive 64/432/EEC;

Whereas an eradication programme was undertaken in this region for Aujeszky's disease;

Whereas Commission Decision 93/244/EEC⁽³⁾, as last amended by Decision 97/423/EC⁽⁴⁾ lays down additional guarantees relating to Aujeszky's disease for pigs destined for certain parts of the territory of the Community where an eradication programme has been approved and lists those regions in Annex I;

Whereas the programme is regarded to have been successful in eradicating this disease from Rhineland-Palatinate; whereas it is therefore appropriate to remove these regions from the list of regions in Annex I of Decision 93/244/EEC;

Whereas the authorities of Germany apply for national movement of pigs rules at least equivalent to those provided by the present decision;

Whereas these additional guarantees must not be requested from Member States or regions of Member States which are themselves regarded as free from Aujeszky's disease;

Whereas Decision 93/24/EEC⁽⁵⁾, as last amended by Decision 97/423/EC lays down additional guarantees relating to Aujeszky's disease for pigs destined for Member States or regions free of the disease and lists those regions in Annex I;

Whereas these parts of Germany which are free of the disease should be added to Annex I of Commission Decision 93/24/EEC;

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

HAS ADOPTED THIS DECISION:

Article 1

1. Annex I of Decision 93/24/EC is replaced by Annex I of this Decision.
2. Annex I of Decision 93/244/EEC is replaced by Annex II of this Decision.

Article 2

This Decision shall apply from 15 December 1997.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 3 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 121, 29. 7. 1964, p. 1977/64.

⁽²⁾ OJ L 109, 25. 4. 1997, p. 1.

⁽³⁾ OJ L 111, 5. 5. 1993, p. 21.

⁽⁴⁾ OJ L 180, 9. 7. 1997, p. 28.

⁽⁵⁾ OJ L 16, 25. 1. 1993, p. 18.

*ANNEX I**ANNEX I***Regions free of Aujeszky's disease which do not permit vaccination**

Denmark:	all regions
United Kingdom:	all regions in England, Scotland and Wales
France:	the Departments of Maine-et-Loire, Sarthe, Vendée, Charente, Charente-Maritime, Deux-Sèvres, Vienne, Aude, Dordogne, Gironde, Landes, Lot-et-Garonne, Pyrénées-Atlantiques, Ariège, Aveyron, Haute-Garonne, Gers, Lot, Hautes-Pyrénées, Tarn, Tarn-et-Garonne
Finland:	all regions
Germany:	the <i>Länder</i> of Thüringen, Sachsen, Brandenburg, Mecklenburg-Vorpommern, Sachsen-Anhalt, Rheinland-Pfalz
Austria:	all regions
Sweden:	all regions'

*ANNEX II**ANNEX I*

Luxembourg:	Member State
Germany:	all regions except the <i>Länder</i> of Thüringen, Sachsen, Brandenburg, Mecklenburg-Vorpommern, Sachsen-Anhalt, Rheinland-Pfalz'
