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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC, ECSC, EURATOM) No 501/98**of 20 February 1998****laying down the weightings applicable from 1 July 1997 to the remuneration of officials of the European Communities serving in third countries**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing a Single Council and a Single Commission of the European Communities,

Having regard to the Staff Regulations of Officials of the European Communities and the conditions of employment of other servants of the Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾, as last amended by Regulation (EC) No 2592/97 ⁽²⁾, and in particular the first paragraph of Article 13 of Annex X,

Having regard to the proposal from the Commission,

Whereas account should be taken of changes in the cost of living in countries outside the Community and weightings applicable to remuneration payable in the currency of the country of employment to officials serving in third countries should be determined with effect from 1 July 1997;

Whereas, under Annex X of the Staff Regulations, the Council sets the weightings every six months; whereas it will accordingly have to set new weightings for the coming half-years;

Whereas the weightings to apply with effect from 1 July 1997 in respect of which payment has been made on the basis of a previous Regulation could lead to retrospective adjustments to remuneration (positive or negative);

Whereas provision should be made for back-payments in the event of an increase in remunerations as a result of these weightings;

Whereas provision should be made for the recovery of sums overpaid in the event of a reduction in remunerations as a result of these weightings for the period

between 1 July 1997 and the date of the Council Decision setting the weightings to apply with effect from 1 July 1997;

Whereas, however, in order to mirror the weightings applicable within the European Community to remuneration and pensions of officials and other servants of the European Communities, provision should be made for any such recovery to apply solely to a period of no more than six months preceding the decision and for its effects to be spread over a period of no more than twelve months following the date of the said decision,

HAS ADOPTED THIS REGULATION:

Article 1

With effect from 1 July 1997, the weightings applicable to remuneration payable in the currency of the country of employment shall be as shown in the Annex.

The exchange rates for the calculation of such remuneration shall be those used for implementation of the general budget of the European Communities for the month preceding the date referred to in the first paragraph.

Article 2

In accordance with the first paragraph of Article 13 of Annex X of the Staff Regulations, the Council shall set weightings every six months. It shall accordingly set new weightings with effect from 1 January 1998.

The institutions shall make back payments in the event of an increase in remuneration as a result of these weightings.

⁽¹⁾ OJ L 56, 4. 3. 1968, p. 1.

⁽²⁾ OJ L 351, 23. 12. 1997, p. 5.

For the period between 1 July 1997 and the date of the Council decision setting the weightings applicable with effect from 1 July 1997, the institutions shall make retrospective downward adjustments to remuneration in the event of a reduction as a result of these weightings.

Retrospective adjustments involving the recovery of sums overpaid shall, however, concern only a period of no

more than six months preceding the decision and this recovery shall be spread over no more than 12 months from the date of that decision.

Article 3

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

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

Done at Brussels, 20 February 1998.

For the Council
The President
R. COOK

ANNEX

Place of employment	Weightings July 1997	Place of employment	Weightings July 1997
Albania	82,84	Liberia (*)	0,00
Algeria (*)	0,00	Lithuania (*)	0,00
Angola	81,04	Madagascar	51,73
Antigua and Barbuda	109,02	Malawi	46,90
Argentina	105,90	Mali	86,85
Australia	88,56	Malta	80,48
Bangladesh	67,50	Mauritania	86,58
Barbados	114,24	Mauritius	79,56
Belize	80,31	Mexico	61,53
Benin	75,34	Morocco	72,76
Bolivia (*)	0,00	Mozambique	64,03
Bosnia-Herzegovina (*)	0,00	Namibia	67,49
Botswana	66,75	Netherlands Antilles	92,22
Brazil	92,37	New Caledonia	125,01
Bulgaria	93,55	Nicaragua (*)	0,00
Burkina Faso	79,49	Niger	77,86
Burundi (*)	0,00	Nigeria	80,92
Cameroon	94,62	Norway	129,58
Canada	76,84	Pakistan	64,17
Central African Republic	114,12	Papua New Guinea	95,23
Chad	80,65	People's Republic of Congo (*)	0,00
Chile	99,27	Peru	90,08
China	91,92	Philippines	68,20
Colombia	86,05	Poland	66,70
Comoros	103,43	Republic of Cape Verde	84,70
Costa Rica	85,20	Romania	60,89
Croatia (*)	0,00	Russia	128,38
Cyprus	87,05	Rwanda (*)	0,00
Czech Republic	65,74	Samoa	86,22
Democratic Republic of Congo (*)	0,00	São Tomé and Príncipe (*)	0,00
Djibouti	123,30	Senegal	81,47
Dominican Republic	72,99	Sierra Leone	106,54
Egypt	68,45	Slovakia	63,80
Equatorial Guinea	91,93	Slovenia	92,75
Eritrea (*)	0,00	Solomon Islands	101,34
Estonia (*)	0,00	Somalia (*)	0,00
Ethiopia	39,54	South Africa (Pretoria)	72,52
Federal Republic of Yugoslavia	73,12	South Africa (The Cape)	76,37
Fiji	76,25	South Korea	107,88
Gabon	124,30	Sri Lanka (*)	0,00
Gambia	93,21	Sudan	33,67
Georgia	88,55	Suriname	63,11
Ghana	36,33	Swaziland	52,46
Guatemala	67,10	Switzerland	120,38
Guinea	111,36	Syria	78,74
Guinea-Bissau	68,01	Tanzania	78,11
Guyana	68,73	Thailand	78,43
Haiti	82,65	Togo	82,20
Hong Kong	101,12	Tonga	97,44
Hungary	64,75	Trinidad and Tobago	59,20
India	45,76	Tunisia	68,11
Indonesia	80,53	Turkey	72,53
Israel	107,18	Uganda	74,72
Ivory Coast	96,53	Ukraine	141,50
Jamaica	104,82	United States of America (New York)	98,19
Japan (Naka)	134,18	United States of America (San Diego)	86,14
Japan (Tokyo)	163,31	United States of America (Washington)	90,14
Jordan	73,00	Uruguay	97,85
Kazakhstan	119,19	Vanuatu	122,43
Kenya	81,68	Venezuela	68,37
Latvia (*)	0,00	Viet Nam	38,77
Lebanon	108,45	Zambia	72,66
Left Bank – Gaza strip (*)	0,00	Zimbabwe	52,05
Lesotho	60,06		

(*) Not available.

**COMMISSION REGULATION (EC) No 502/98
of 3 March 1998**

**imposing a provisional anti-dumping duty on imports of certain magnetic disks
(3,5" microdisks) originating in Indonesia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as amended by Regulation (EC) No 2331/96⁽²⁾, and in particular Articles 7 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) On 6 April 1995, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾ the initiation of an anti-dumping proceeding with regard to imports into the Community of certain magnetic disks (3,5" microdisks) originating in Canada, Indonesia, Macao and Thailand, and commenced an investigation.

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

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

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

(4) The Commission sent questionnaires to parties known to be concerned and received detailed information from the complainant Community producers, one producer in Indonesia, and one

producer and its related sales company in Thailand.

(5) The Commission carried out verification visits at the premises of the following companies:

(a) *Complainant Community producers*

Belgium: Sentinel Computer Products Europe NV, Wellen;

Germany: Boeder AG, Flörsheim am Main;

France: RPS Media SA (a subsidiary of Boeder AG), Albi; Sentinel France, SA (a subsidiary of Sentinel Computer Products Europe NV), Paris;

Italy: Computer Support Italy, srl, Verderio Inferiore.

(b) *Producers/exporters in the countries concerned*

Indonesia:

— PT Beneluxindo, Jakarta, and its related companies Benelux Manufacturing and Prime Standard in Hong Kong.

Thailand:

— V-SA Magnetic Co. Ltd, Bangkok (producer),

— V-SA Cast Co. Ltd, Bangkok (related sales company).

(6) For the purposes of establishing dumping, the investigation covered the period 1 March 1994 to 28 February 1995 (hereinafter referred to as the 'investigation period'). The examination of injury covered the period between 1992 and the investigation period.

(7) It is recalled that definitive anti-dumping duties have already been imposed on imports of 3,5" microdisks originating in Japan, Taiwan and the People's Republic of China by Council Regulation (EEC) No 2681/93⁽⁴⁾, in Hong Kong and the Republic of Korea by Council Regulation (EC) No 2199/94⁽⁵⁾, and in Malaysia, Mexico and the USA by Council Regulation (EC) No 663/96⁽⁶⁾.

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 317, 6. 12. 1996, p. 1.

⁽³⁾ OJ C 84, 6. 4. 1995, p. 4.

⁽⁴⁾ OJ L 262, 21. 10. 1993, p. 4.

⁽⁵⁾ OJ L 236, 10. 9. 1994, p. 2.

⁽⁶⁾ OJ L 92, 13. 4. 1996, p. 1.

- (8) Owing to the volume and complexity of the data gathered and examined, and the parallel anti-circumvention investigation ⁽¹⁾ carried out pursuant to Article 13 of Regulation (EC) No 384/96 (hereinafter referred to as the 'Basic Regulation'), the duration of the investigation, which is not subject to the time limits laid down in Article 6(9) of the Basic Regulation, exceeded the period of one year.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Description of the product concerned

- (9) The products for which the proceeding was initiated were 3,5" microdisks, used to record and store encoded digital computer information (CN codes ex 8523 20 90 and ex 8524 90 91).
- (10) With respect to 3,5" microdisks falling within CN code ex 8524 90 91 (since 1 January 1996, CN code ex 8524 91 10) the investigation has shown that although in technical terms they fall within the description given in recital 9, these microdisks contain data or instructions (other than sound or images) of a kind used in automatic data-processing machines. On the basis of the facts currently available, it was concluded that such microdisks could not be viewed as one product together with microdisks falling within CN code ex 8523 20 90, which do not contain such data. Since, moreover, no evidence of dumping of injury was found concerning this product, the proceeding in respect of the latter should be terminated, and the findings will refer only to 3,5" microdisks falling within CN code ex 8523 20 90, these having been the subject of all prior proceedings.
- (11) The microdisks concerned were available in various types, depending on their storage capacity and on the way in which they were marketed. However, no significant differences existed in the basic physical characteristics and technology of the various types of microdisks, all of which, in addition, showed a high degree of interchangeability. In these circumstances, and in line with the position previously adopted by the Community institutions, all 3,5" microdisks falling within CN code ex 8523 20 90 should be considered as one product for the purposes of this proceeding.

2. Like product

- (12) The various types of microdisks classified under CN code ex 8523 20 90 which are manufactured in the Community or exported to the Community from the countries in question use the same basic technology and are alike in their essential physical characteristics and end-uses. They have, therefore, to be considered as a like product within the meaning of Article 1(4) of the Basic Regulation.

C. DUMPING

1. Canada, Macao and Thailand

- (13) The Commission found it unnecessary to establish whether imports of 3,5" microdisks originating in Canada, Macao and Thailand were dumped, since the injury caused by these imports during the investigation period was regarded as negligible. Therefore the Commission has terminated the proceeding concerning imports originating in these countries, by Decision 98/175/EC ⁽²⁾.

2. Indonesia

(a) Normal value

- (14) One Indonesian producer, which accounted for almost all recorded imports of the product in question into the Community from Indonesia, cooperated in the investigation. This producer obtained all its raw materials from its parent company in Hong Kong, while all its sales were handled by another of the parent's subsidiaries, a trading company also based in Hong Kong. The Indonesian producer, therefore, had no sales or purchasing departments, only a production facility and a shipping department.
- (15) The producer in question had no sales on the Indonesian market. Since the Commission had no information concerning any other producer in Indonesia selling in this market, the normal value had to be constructed in accordance with Article 2(3) of the Basic Regulation, that is on the basis of the cost of production in the country of origin plus a reasonable amount for selling, general and administrative expenses (hereinafter referred to as

⁽¹⁾ OJ L 186, 25. 7. 1996, p. 14.

⁽²⁾ See page 32 of this Official Journal.

'SG&A expenses') and profit. Materials costs were based on the actual costs incurred by the Hong Kong parent. Other manufacturing costs were based on the actual costs incurred by the Indonesian producer. SG&A expenses were calculated, in accordance with Article 2(6)(c) of the Basic Regulation, on the basis of the general and administrative expenses incurred by the Indonesian producer, plus the SG&A expenses of the Hong Kong parent and its related trading subsidiary for the product in question. As for a profit is concerned, it was judged reasonable to use the profit reported in the Group's consolidated accounts, since the group is active in the field of manufacturing and trading of magnetic media products.

(b) *Export price*

- (16) All sales were made at transfer prices to the Hong Kong parent company, which in turn sold the goods, through its related trading subsidiary, to independent customers in the Community. Therefore, it was found that the export price should be established by reference to the prices actually paid or payable to the related trading company in Hong Kong.

(c) *Comparison*

- (17) For the purposes of ensuring fair comparison, at ex-Indonesian factory level, between the constructed export price and the constructed normal value, adjustments were made in respect of freight and insurance, credit costs and commissions in accordance with points (e), (g) and (i) of Article 2(10) of the Basic Regulation. As stated at recital 14, because of the relationship between the Indonesian producer and the related trading subsidiary in Hong Kong, the prices charged by the producing company to the related trading subsidiary, through its parent company, are not reliable. To establish a reliable export price to the Community from Indonesia, the price charged from Hong Kong to the Community was adjusted to an ex-Indonesia level.

As the related trader's functions can be considered similar to those of a trader acting on a commission basis, an adjustment of 6 %, based on a reasonable amount for SG&A expenses and profit, was deducted from the prices charged by the related trading subsidiary to independent customers in the Community. This figure was considered reasonable given the degree of the related trader's involvement in the selling activities of the exporter.

(d) *Dumping margin*

- (18) The weighted average normal value was compared with the weighted average export price. The provisional dumping margin for the Indonesian producer, expressed as a percentage of the total cif Community-frontier value of imports, was 41,1 %.
- (19) To cover the contingency that there might be another Indonesian producer/exporter, which had failed to reply to the Commission's questionnaire, a residual dumping margin was determined on the basis of the facts available in accordance with Article 18(1) of the Basic Regulation. This was done in order not to reward non-cooperation and to avoid any opportunity for circumvention. When the figures for exports to the Community provided by the cooperating Indonesian producer were compared with Community import statistics, it was apparent that there was a very high degree of cooperation. The Commission therefore considered that the most reasonable facts available were those established in the investigation and that, since there was no reason to believe that any non-cooperating producer/exporter would have dumped at a lower level than the level found for the cooperating producer, the residual margin should be set at the same level, that is 41,1 %.

D. COMMUNITY INDUSTRY

- (20) Information was sought from all known producers of the product concerned in the Community. The Commission also took into consideration, as it had done in the prior proceedings, the fact that some of the producers in the Community were related to producers in the countries concerned by those prior proceedings, which were found to be dumping and thereby causing material injury.
- (21) As in the prior proceedings, the Commission found that the assessment of the effects of the dumped imports originating in Indonesia would be distorted if Community producers related to those producers from countries involved in prior proceedings found to be dumped the like product, and causing material injury to the complainant, were not excluded from the definition of the 'Community industry'.
- (22) On the basis of the approach outlined above, the share of the total Community production held by the complainant producers during the investigation period amounted to at least 85 %. Consequently, the complainant (Diskma) represented a major proportion of total Community production of the product concerned.

E. INJURY

Preliminary remark

(23) It has to be noted that the Council has already found that the Community industry was suffering material injury from the effects of dumped imports from Japan, Taiwan, the People's Republic of China, Hong Kong, the Republic of Korea, Malaysia, Mexico and the USA. In the present proceeding, the Commission examined whether the dumped imports of the product concerned from Indonesia also contributed to the material injury to the Community industry.

(24) The Commission's examination covered the existing Community of 15 Member States.

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

(25) The Commission has relied on the methodology adopted in the prior proceedings, with an adjustment to take account of consumption in Austria, Finland and Sweden during the period under consideration.

(26) On this basis, Community consumption was 819 million units in 1992, 1 095 million units in 1993, 1 400 million units in 1994, and 1 413 million units in the investigation period, that is an increase of 73 % between 1992 and the investigation period.

(27) Imports from Indonesia went up from 0,19 million units in 1992 to 91,5 million units during the investigation period, an increase by a factor of 480 over the period. As imports from Indonesia grew, their market share, assessed in the light of Community consumption, rose from 0,02 % in 1992, to 1,56 % in 1993, 6,04 % in 1994, and 6,48 % in the investigation period.

2. *Prices of the dumped imports*

(28) For the sole cooperating producer in Indonesia, price undercutting was established by comparing its sales prices to the first independent customer in the Community, adjusted in respect of import duties paid and post-importation costs, with the weighted average ex-factory prices of the Community industry. The comparison was made separately for each of the product types imported (that is high-density bulk/packed, double-density bulk).

(29) The comparison showed, on a weighted average basis, a price undercutting margin of 26,1 % for the cooperating producer.

3. *Situation of the Community industry*(a) *Production and capacity utilisation*

(30) The volume of production of the product concerned by the Community industry increased from 105 million units in 1992, to 175 million in 1993, 243 million in 1994 and 246 million in the investigation period, an absolute increase of 134 % over the period considered. Average capacity utilisation rates were 80 % in 1992, 85 % in 1993, 94 % in 94, and 93 % in the investigation period, close to the effective maximum.

(b) *Sales and market share*

(31) The Community industry's sales on the Community market grew from 97 million units in 1992, to 158 million in 1993, 219 million in 1994 and 232 million in the investigation period. In terms of market share, this was 11,8 % in 1992, 14,4 % in 1993, 15,6 % in 1994, and 16,5 % in the investigation period. This increase in market share has to be seen in the light of the previously imposed anti-dumping measures from which the Community industry has benefited. This was particularly the case with respect to imports from Japan, Taiwan, China and Hong Kong. Imports from these countries represented a market share of 44,3 % in 1992, but had fallen to 7,5 % in the investigation period. Due to the pressure of dumped imports concerned by the present proceeding, however, the Community industry was obliged to reduce prices to achieve this growth in market share, particularly in the bulk diskette segment.

(c) *Prices and profitability*

(32) Although the Community industry's unit costs fell by 34 %, from ECU 0,488 to ECU 0,324 between 1992 and the investigation period, selling prices fell by 37 %, from ECU 0,504 to ECU 0,318, over the same period. Profitability overall, as a consequence, deteriorated from a positive 3,2 % on sales in 1992 to losses of 1,9 % in the investigation period.

(d) *Conclusion on injury*

(33) In the light of preceding analysis, the Commission provisionally concludes that the Commission industry is suffering material injury.

(34) Overall, the situation remains essentially the same as in the prior proceedings. Production, sales and capacity utilisation showed positive development, due in large measure to the expansion of the market. However, the benefit of these positive

factors has been offset by the low levels of prices, which remained well below the levels required for the generation of the profits to finance the investments needed to allow the Community industry to keep place with the swiftly changing conditions evident in the area of information technology. Indeed, despite the expansion of the market, the Community industry's prices fell by 37 % over the period examined, resulting in a considerably worsened financial situation.

- (35) Finally, it should be noted that the evaluation of the above factors, including the Community industry's increased market shares, has to be seen in the light of the fact that, during the period examined, the Community industry was still suffering from the effects of past dumping, as established in the prior proceedings.

F. CAUSATION OF INJURY

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

1. Effects of the dumped imports from Indonesia

- (37) Both the volumes and market shares of the dumped imports grew at rates far in excess of the growth of Community consumption. In index terms, consumption grew from 100 in 1992 to 173 in the investigation period; corresponding figures for the volumes of dumped imports were 100 and 48 700, and for the market shares represented by these, 100 and 32 400. Given the standardized nature of the product, and the transparency of the market, the sales of dumped imports at prices that undercut those of the Community industry by substantial margins could not have failed to have negative consequences for the Community industry, which had to align its prices downwards in an attempt to resist the pressure from the dumped imports, and to capture a viable share of the Community market with levels of production allowing the economic employment of resources. The resulting depression of prices led to the losses referred to above. Indeed, the Community industry became loss-making at the same time as Indonesian imports reached their present significant market share of more than 6 %.

2. Effects of other factors

- (38) It should be recalled (see recital 7) that the Council has already determined that imports of the like product from Japan, Taiwan, the People's Republic of China, Hong Kong, the Republic of Korea,

Malaysia, Mexico and the USA were being dumped and causing material injury to the Community industry. As the investigation period in the preceding investigation concerning Malaysia, Mexico and the USA (1 August 1993 to 31 July 1994) overlapped that in the present proceeding by five months, it is clear that imports from the three countries in question were also a cause of the injury suffered by the Community industry in the period examined in the present investigation. Nevertheless, the dumped imports, from Indonesia, which entered the Community market in increasing quantities at low dumped prices between 1992 and the end of the investigation period, had a significant impact. These imports were all the more injurious for an industry which, since 1990, had already been weakened by, and was continuously suffering injury from, dumped imports addressed by the prior proceedings mentioned above.

- (39) Imports from countries other than Indonesia and those subject to measures remained stable between 1992 and 1995, at between 5 and 6 % of Community consumption. No conclusions as to the possibility of injurious dumping arising from these imports can be drawn from the information available to the Commission at the provisional stage of the proceeding.

- (40) Consequently, even if imports originating in countries other than Indonesia, including those subject to prior proceedings, had caused injury to the Community industry, this would not alter the fact that the injury caused by the dumped imports originating in Indonesia, viewed in isolation, is material.

3. Conclusion

- (41) In these circumstances, therefore, the Commission concludes, for the purpose of provisional findings, that, notwithstanding the injury found to have been caused by dumped imports from Japan, Taiwan, the People's Republic of China, Hong Kong, the Republic of Korea, Malaysia, Mexico and the United States, the dumped imports from Indonesia, because of their low prices, their growing share of the Community market between 1992 and the end of the investigation period, and the resulting deterioration in the financial situation of the Community industry during the same period, have, in isolation, caused material injury to this industry.

G. COMMUNITY INTEREST

1. General consideration

- (42) It should be borne in mind that, in prior proceedings (see recital 7), the Council determined that it was in the interest of the Community to impose measures in respect of dumped imports of the product concerned. Further, given the overlap between the investigation period in this proceeding and in the immediately preceding investigation, a new, full enquiry into the Community interest in this case was unwarranted. Moreover, as in the previous proceedings, no information was submitted by users of the product concerned or other interested parties. Nevertheless, on the basis of the information available, the Commission considered the likely impact of measures, or the absence thereof, on the Community industry and on other economic operators in the sector involving the product concerned.

2. Consequences for the Community industry

- (43) In 1992, the Community industry consisted of four small or medium-sized enterprises. Production is capital-intensive, rather than labour-intensive, and the companies concerned were capable of responding flexibly to the demands of a growing Community market. Since 1990, however, growing competition from dumped imports from various sources has continually created difficulties for Community producers, who have had to repeatedly avail themselves of the Community anti-dumping instrument.
- (44) As the product has matured, however, two Community producers restructured their investment and have ceased production of 3,5" microdisks in the Community, thus leaving two companies active in the production and sales of the product concerned. The remaining producers are viable, as is evidenced by the fact that between 1994 and 1995, production increased from 242 to 281 million units, and unit costs fell by about 10%. The Community industry is capable of efficiently supplying the market for a product which, although at a mature stage in its life-cycle, forms the basic storage medium for a large number of computer users.
- (45) The imposition of measures would remove the pressures on the Community market arising from the dumped imports under investigation. This would allow the Community industry to increase prices to the extent that a reasonable level of operating profit could be achieved, thus enabling it to

maintain its presence in an important and rapidly-developing area of technological significance. If measures are not imposed, however, the remaining producers may be forced to cease production because of a lack of profitability.

3. Consequences for the supplier industry

- (46) Given the output of the Community industry at over 280 million diskettes in 1995, and its 16,5% share of the Community market, the industry's disappearance would have damaging consequences for component suppliers. Anti-dumping measures would, therefore, be in their interest.

4. Consequences for users and consumers

- (47) As to the interests of users of 3,5" microdisks, and in particular the software industry, any price advantages in the short term have to be seen against the longer term effects of failing to restore effective competition. Indeed, as stated above, to refrain from acting would seriously threaten the viability of the Community industry, the disappearance of which would, in fact, reduce supply and competition, to the detriment of consumers, including the software houses.
- (48) Furthermore, the overall downstream price effect of the duty proposed, taking into account Indonesia's market share, and reasonable assumptions on market price elasticities, could be a maximum price increase of less than 2% at the retail level. It is considered unlikely, however, that prices will rise even to this extent as 75% of imports from Indonesia are bulk diskettes. These are a commodity product, used largely for duplication, where they account for a negligible proportion of costs, and it is therefore by no means certain that a duty-induced increase will fully be passed on to consumers. This expectation is supported by the existence of a certain degree of production overcapacity on a global level that limits somewhat the possibilities of price increases; it is further reinforced by the standardised nature of the product, the transparency of the market and the effects noted after the imposition of the previous measures.

5. Effective competition and trade distorting effects

- (49) In assessing the Community interest, special consideration has to be given to the need to eliminate the trade-distorting effects of injurious dumping and to restore effective competition.

Anti-dumping measures only remove the injurious effects of dumping and are not, consequently, an obstacle to supply from third countries at fair prices. It is only the unfair element in the exporters' price advantage that is eliminated. In these circumstances, imports would still complete on the basis of their true competitive advantage, and exporters' access to the Community market would be unlikely to diminish.

6. Conclusions

(50) After consideration of the various interests involved, it is provisionally found that the adoption of measures in the present proceeding will re-establish fair competition by eliminating the injurious effects of Indonesian dumping practices, and will offer the Community industry the opportunity to maintain and develop its activities in the very important sector of data storage and transmission. In addition, the market for the component supply industry in the Community will be maintained.

(51) Further, in the light of the Council's findings in the previous proceedings, the Community interest requires that, in order to prevent the effects of the measures already taken from being undermined, and to avoid discriminating against countries found to have been dumping and causing injury protective measures be introduced with regard to imports of the dumped 3,5" microdisks subject to this proceeding.

It is, therefore, in the Community interest to adopt anti-dumping measures with regard to the dumped imports originating in Indonesia.

H. DUTY

(52) The Commission considers that the measures should take the form of provisional *ad valorem* duties. For the purpose of establishing the level of the provisional duties, the Commission took account of the dumping margins found and of the amount of duty necessary to eliminate the injury sustained by the Community industry.

(53) Since the injury consists principally of depression of prices, lack of profitability or losses, the removal of such injury requires that the industry should be able to increase prices to non-injurious levels without loss of sales volume.

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

(55) To that end, and as in prior proceedings concerning microdisks, the Commission has used the representative production costs of the complainant industry, together with the amount of profit used in the previous proceeding (12 % on turnover), this being the margin which is considered necessary to ensure the viability of the Community industry and which the industry could be expected to attain in the absence of dumped imports.

(56) The resulting prices based on these costs and profits were compared with the prices of the dumped imports used to establish undercutting, as outlined in recital 28.

(57) The differences between these prices established on a weighted average basis and expressed as a percentage of the free-at-Community-frontier price were above the dumping margins established for the cooperating producer in Indonesia. It is therefore proposed that provisional anti-dumping duties should be set at the level of the dumping margins established in the investigation.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of 3,5" microdisks used to record and store encoded digital computer information, falling within CN code ex 8523 20 90 (TARIC additional code 8523 20 90 10), and originating in Indonesia.

2. The rate of duty applicable to the net free-at-Community-frontier price, before duty, shall be 41,1 %.

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

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

Article 2

The anti-dumping proceeding is hereby terminated as far as imports of 3,5" microdisks which contain data or instructions (other than sound or images) of a kind used in automatic data-processing machines, falling within CN code ex 8524 91 10, are concerned.

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

Done at Brussels, 3 March 1998.

Article 3

Without prejudice to Article 20 of Regulation (EC) No 384/96 and pursuant to Article 21 thereof, the parties concerned may make their views known in writing and apply to be heard orally by the Commission within one month of the entry into force of this Regulation.

Article 4

Subject to Articles 7, 9, 10 and 14 of Regulation (EC) No 384/96, Article 1 of this Regulation shall apply for a period of six months unless the Council adopts definitive measures before the expiry of that period.

Article 5

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

For the Commission

Leon BRITTAN

Vice-President

COMMISSION REGULATION (EC) No 503/98
of 3 March 1998
amending for the eighth time Regulation (EC) No 913/97 adopting exceptional
support measures for the market in pigmeat in Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽¹⁾, as last amended by Regulation (EC) No 3290/94 ⁽²⁾, and in particular Article 20 and Article 22 second paragraph thereof,

Whereas, because of the outbreak of classical swine fever in certain production regions in Spain, exceptional support measures for the market in pigmeat in that Member State were adopted by Commission Regulation (EC) No 913/97 ⁽³⁾, as last amended by Regulation (EC) No 292/98 ⁽⁴⁾;

Whereas in certain areas affected recently by classical swine fever, fattening pigs of the Iberian breed are subject to veterinary and commercial restrictions adopted by the Spanish authorities; whereas these pigs are different, at a technical and economic level, from other fattening pigs; whereas it is consequently justified to create a specific category for these pigs and to include them in the support measures laid down in Regulation (EC) No 913/97;

Whereas it is convenient, owing to the veterinary and commercial restrictions adopted by the Spanish authorities, to increase the number of fattening pigs which can be delivered to the competent authorities, thus allowing the continuation of the exceptional measures in the weeks to come;

Whereas it is necessary to specify that piglets of a weight equal to or greater than 25 kilograms can be delivered under these support measures, but that a ceiling is set for the aid for these animals at the level of aid for piglets weighing 25 kilograms;

Whereas the support measures in the provinces of Segovia, Madrid and Toledo started with a certain delay, in particular owing to problems of capacity in the rendering plant; whereas consequently, the fattening pigs have been blocked on the holdings for several weeks; whereas it is consequently justified not to apply the ceiling for the aid for fattening pigs weighing more than

110 kilograms from these areas for the period 6 February to 15 March 1998;

Whereas Articles 1 and 4 were amended several times; whereas it is therefore convenient to draft them again in order to ensure the comprehensibility of the text;

Whereas the restrictions on the free movement of live pigs have existed for several weeks in the areas of Segovia, Madrid and Toledo leading to a substantial increase in the weights of the animals and, as a consequence, to an intolerable situation at the level of animal welfare; whereas it is consequently justified to apply this Regulation as from 18 February 1998;

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

Regulation (EC) No 913/97 is hereby amended as follows:

1. Article 1 is replaced by the following:

'Article 1

1. From 6 May 1997 producers shall be eligible, on request, for aid granted by the competent Spanish authorities for delivery to them of pigs for fattening falling within CN code 0103 92 19 weighing 90 kilograms or more on average per batch.
2. From 18 February 1998, producers shall be eligible on request, for aid granted by the competent Spanish authorities for delivery to them of pigs for fattening of the breed "Iberian pig" or its crosses, falling within CN code 0103 92 19 weighing 150 kilograms or more on average per batch.
3. From 18 September 1997, producers may, on application, receive aid from the competent Spanish authorities when they deliver to them cull sows falling within CN code 0103 92 11 with an average weight, per batch, of not less than 160 kg.
4. From 6 May 1997 producers shall be eligible, on request, for aid granted by the competent Spanish authorities for delivery to them of piglets falling within CN code 0103 91 10 weighing 10 kilograms or more on average per batch.

⁽¹⁾ OJ L 282, 1. 11. 1975, p. 1.

⁽²⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ L 131, 23. 5. 1997, p. 14.

⁽⁴⁾ OJ L 30, 5. 2. 1998, p. 14.

5. Seventy per cent of the expenditure relating to these aids shall be financed by the Community budget, for a total maximum number of animals as laid down in Annex I.;

2. Article 4 is replaced by the following:

Article 4

1. For pigs for fattening weighing 90 kilograms or more on average per batch, the aid referred to in Article 1(1), at farm gate, shall be equal to the market price for slaughtered pigs of grade E within the meaning of Article 4(2) of Regulation (EEC) No 2759/75, of Commission Regulation (EEC) No 3537/89 (*) and Commission Regulation (EEC) No 2123/89 (**), recorded in Spain during the week preceding the delivery of the pigs for fattening to the competent authorities, less transport costs of ECU 1,3 per 100 kilograms carcase weight.

For pigs for fattening weighing less than 90 kilograms but more than 80 kilograms on average per batch, the aid fixed pursuant to subparagraph 1 shall be reduced by 15 %.

The aid shall be fixed on the basis of the established slaughter weight. If, however, the animals are only weighed live, a coefficient of 0,81 shall be applied to the aid.

2. For pigs for fattening of the breed "Iberian pig" or its crosses weighing 150 kilograms or more on average per batch, reared and fattened under the specific conditions for this type of production, the aid referred to in Article 1(2), at farm gate, shall be equal to the market price, per kilogram live weight, for Iberian pigs *cebados de pienso* (fattened with compound feed), recorded in Spain by the Ministry for Agriculture during the week preceding the delivery of the pigs to the competent authorities, less transport costs of ECU 1,3 per 100 kilograms carcase weight.

For pigs weighing less than 150 kilograms but more than 140 kilograms on average per batch, the aid fixed pursuant to the first subparagraph shall be reduced by 15 %.

3. For cull sows weighing 160 kilograms or more on average per batch, the aid referred to in Article 1(3), at farm gate, shall be equal to the aid fixed pursuant to paragraph one, first subparagraph, reduced by 30 %.

The aid shall be fixed on the basis of the established slaughter weight. If, however, the animals are only weighed live, a coefficient of 0,78 shall be applied to the aid.

4. The aid provided for in Article 1(4) at farm gate, for piglets weighing 10 kilograms or more but less than 16 kilograms on average per batch, is calculated

on the basis of the price per kilogram for "piglets of Lerida" of the category 15 kilograms, recorded on the market "Mercolerida" during the week preceding the delivery of piglets to the competent authorities.

The aid provided for in Article 1(4) at farm gate, for piglets weighing 16 kilograms or more but less than 25 kilograms on average per batch, is calculated on the basis of the price per kilogram for "piglets of Lerida" of the category 20 kilograms "Selecta" recorded on the market of Segovia during the week preceding the delivery of the piglets to the competent authorities.

For piglets weighing 25 kilograms or more on average per batch, the aid cannot be higher than the aid fixed pursuant to the second paragraph for piglets weighing 25 kilograms on average.

5. For fattening pigs, referred to in Article 1(1), weighing more than 110 kilograms on average, the aid cannot be higher than the aid fixed pursuant to paragraph 1 for fattening pigs weighing 110 kilograms on average.

However, this provision does not apply from 6 February to 15 March 1998, to pigs for fattening from the zones provided for in Annex II, located in the provinces of Segovia, Madrid and Toledo.

(*) OJ L 347, 28. 11. 1989, p. 20.

(**) OJ L 203, 15. 7. 1989, p. 23.;

3. Article 6 is replaced by the following:

Article 6

The competent Spanish authorities shall send the Commission each Wednesday the following information concerning the previous week:

— number and total weight of:

- pigs for fattening delivered,
- Iberian pigs for fattening delivered,
- cull sows delivered,
- piglets delivered,

— aids provided for in Article 4:

- paragraph one, first subparagraph,
- paragraph two, first subparagraph,
- paragraph 4, first and second subparagraphs.;

4. Annex I is 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 18 February 1998.

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

Done at Brussels, 3 March 1998.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

ANNEX I

Maximum total number of animals from 6 May 1997:

Fattening pigs	590 000 head
Piglets	140 000 head
Cull sows	8 000 head
Fattening pigs of the breed "Iberian pig"	6 000 head

COMMISSION REGULATION (EC) No 504/98
of 3 March 1998
amending Regulation (EC) No 94/98 on olive oil storage contracts for the 1997/98
marketing year

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1581/96⁽²⁾, and in particular Article 20d(3) and (4) thereof,

Whereas Commission Regulation (EC) No 94/98⁽³⁾, as amended by Regulation (EC) No 258/98⁽⁴⁾, opens the possibility of concluding olive oil storage contracts; whereas those contracts may be concluded for a minimum of 100 tonnes; whereas, in order to improve operation of the scheme, it should be laid down that that minimum quantity apply to applications rather than to contracts; whereas, in view of the particular production structures in Portugal and Greece, a lower minimum quantity should be provided for in respect of applications submitted in those two Member States;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 94/98 is hereby amended as follows:

1. Article 2(2) is replaced by the following:
'2. Contracts shall relate only to olive oil quantities that may be offered for intervention.'

2. the following subparagraph is added to Article 3(1):
'Applications must be for at least 100 tonnes, except in Portugal and Greece where the minimum quantity shall be 25 tonnes.'

Article 2

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

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

Done at Brussels, 3 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 11.

⁽³⁾ OJ L 9, 15. 1. 1998, p. 25.

⁽⁴⁾ OJ L 25, 31. 1. 1998, p. 38.

**COMMISSION REGULATION (EC) No 505/98
of 3 March 1998**

**amending Regulation (EEC) No 1274/91 introducing detailed rules for
implementing Council Regulation (EEC) No 1907/90 on certain marketing
standards for eggs**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Regulation (EEC) No 1907/90 of 26 June 1990 on certain marketing standards for eggs ⁽¹⁾, as last amended by Regulation (EC) No 818/96 ⁽²⁾, and in particular Articles 10(3) and 20(1) thereof,

Regulation (EEC) No 1274/91 is hereby amended as follows:

1. in article 1(1), the following subparagraph is added:

‘However, in Finland and Sweden delivery or collection from producers to packing centres or to the industry may take place once a week only in those cases where the temperature at which eggs are kept at the farm is artificially maintained below 14 °C.’;

Whereas Commission Regulation (EEC) No 1274/91 ⁽³⁾, as last amended by Regulation (EC) No 1511/96 ⁽⁴⁾, lays down the necessary provisions for the implementation of marketing standards in the egg sector;

2. Article 18 is amended as follows:

— in paragraph 2 the following phrase is added to the second subparagraph:

‘Such records shall be kept on-farm for at least six months after the flock has been disposed of.’;

— the following paragraph 6a is inserted:

‘6a. Collectors and wholesalers are required to maintain records on purchases and sales transactions and stock records for eggs referred to in paragraph 1 (a), (b), (c) and (d).

Collectors shall be able to show for these eggs:

- (a) dates and quantities of collections;
- (b) the names and addresses of the producers;
- (c) dates and quantities of deliveries to the relevant packing stations.

Wholesalers (including dealers who do not physically handle eggs) shall be able to show for these eggs:

- (a) dates and quantities of both purchases and sales
- (b) names and addresses of the suppliers/purchasers

In addition, those wholesalers who physically handle these eggs shall keep a weekly record of physical stock.

Instead of keeping specific records on purchases and sales transactions, collectors and wholesalers may keep files of invoices or delivery notes marked as indicated in paragraph 1.’

Whereas the frequency of collection of eggs might be reduced from those producers who are in a position to provide guarantees of maintaining the temperature at which eggs are kept at the farm below 14 °C; whereas this derogation should be limited to those Member States where because of low production and population densities high collections and distribution costs are the rule and which record low average temperatures; whereas these conditions are fulfilled for Finland and Sweden only; whereas this measure should be applied as from 1 January 1998 in order to provide for a smooth transition to the application of common egg standards in Sweden which had been postponed until that date in accordance with Article 149(1) of the Act of Accession by Commission Regulation (EC) No 2059/96 ⁽⁵⁾;

Whereas in order to ensure better monitoring of the sales of eggs from non-caged hens it is necessary to provide for additional detailed records on the turn-over of these eggs at the stage of collectors and wholesalers;

Whereas it is appropriate to authorise Member States to delegate supervision of the correct labelling of eggs according to the type of farming used to bodies which are independent of producers;

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

⁽¹⁾ OJ L 173, 6. 7. 1990, p. 5.

⁽²⁾ OJ L 111, 4. 5. 1996, p. 1.

⁽³⁾ OJ L 121, 16. 5. 1991, p. 11.

⁽⁴⁾ OJ L 189, 30. 7. 1996, p. 91.

⁽⁵⁾ OJ L 276, 29. 10. 1996, p. 11.

— paragraph 7a is replaced by the following:

'7a. The provisions of paragraph 2 to 6a do not apply when the term referred to in paragraph 1(e) is used.;

3. the following Article 18b is inserted:

Article 18b

Supervision of the indications of the type of farming used as referred to in Article 18(1), including indications regarding the particular characteristics of the respective type of farming, may be delegated to bodies

designated by the Member States which provide the necessary independence *vis-à-vis* the producers concerned and which shall comply with the criteria set out in European Norm No En/45011 in force.

These bodies shall be licensed and supervised by the competent authorities of the Member State concerned.'

Article 2

This Regulation shall enter into force on 1 May 1998.

However Article 1(1) shall apply with effect from 1 January 1998.

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

Done at Brussels, 3 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 506/98
of 3 March 1998
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 Commis-

sion 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 4 March 1998.

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

Done at Brussels, 3 March 1998.

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 3 March 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

<i>(ECU/100 kg)</i>			<i>(ECU/100 kg)</i>		
CN code	Third country code (1)	Standard import value	CN code	Third country code (1)	Standard import value
0702 00 00	204	68,8	0805 30 10	052	67,1
	212	106,3		204	38,0
	624	186,6		400	39,5
	999	120,6		600	79,7
				999	56,1
0707 00 05	052	107,4	0808 10 20, 0808 10 50, 0808 10 90	060	39,7
	068	115,6		388	131,3
	999	111,5		400	92,5
0709 10 00	220	159,1		404	104,5
	999	159,1		508	100,5
0709 90 70	052	141,1		512	86,4
	204	131,1		528	81,0
	999	136,1		720	64,5
0805 10 10, 0805 10 30, 0805 10 50	052	38,4		728	81,0
	204	36,4		999	86,8
	212	39,1	0808 20 50	388	83,1
	600	38,7		400	106,5
	624	52,1		512	65,8
	999	40,9		528	79,3
				999	83,7

(1) Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 507/98
of 3 March 1998

amending Regulation (EC) No 1339/97 opening an invitation to tender for the refund or the tax for the export of common wheat to all third countries except Ceuta, Melilla and certain ACP States

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

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

Regulation (EC) No 1339/97 is amended as follows:

1. the title is replaced by the following:

‘opening an invitation to tender for the refund or the tax for the export of common wheat to all third countries’;

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as last amended by Regulation (EC) No 2052/97⁽⁴⁾, and in particular Article 4 thereof,

2. Article 1(2) is replaced by the following:

‘2. The invitation to tender shall cover common wheat for export to all third countries.’;

Whereas Commission Regulation (EC) No 1883/97⁽⁵⁾, as amended by Regulation (EC) No 2545/97⁽⁶⁾, opens an invitation to tender relating to the export of common wheat to Ceuta, Melilla and certain ACP States to close on 26 February 1998; whereas provision must be made for the possibility of exporting common wheat to Ceuta, Melilla and certain ACP States; whereas the destinations laid down in Commission Regulation (EC) No 1339/97⁽⁷⁾, as amended by Regulation (EC) No 1884/97⁽⁸⁾, should therefore be amended;

3. the title of Annex I is replaced by the following:

‘Weekly tender for the refund or the tax for the export of common wheat to all third countries’;

4. Annex III is deleted.

Article 2

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

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

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

Done at Brussels, 3 March 1998.

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 147, 30. 6. 1995, p. 7.

⁽⁴⁾ OJ L 287, 21. 10. 1997, p. 14.

⁽⁵⁾ OJ L 265, 27. 9. 1997, p. 69.

⁽⁶⁾ OJ L 347, 18. 12. 1997, p. 33.

⁽⁷⁾ OJ L 184, 12. 7. 1997, p. 7.

⁽⁸⁾ OJ L 265, 27. 9. 1997, p. 73.

COMMISSION REGULATION (EC) No 508/98
of 3 March 1998
on the issue of system B export licences in the fruit and vegetables sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 2190/96 of 14 November 1996 on detailed rules for implementing Council Regulation (EEC) No 1035/72 as regards export refunds on fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 213/98 ⁽²⁾, and in particular Article 5(5) thereof,

Whereas Commission Regulation (EC) No 8/98 ⁽³⁾ fixes the indicative quantities for system B export licences other than those sought in the context of food aid;

Whereas, in the light of the information available to the Commission today, there is a risk that the indicative quantities laid down for the current export period for apples for destination group X will shortly be exceeded; whereas this overrun will prejudice the proper working of

the export refund scheme in the fruit and vegetables sector;

Whereas, to avoid this situation, applications for system B licences for apples for destination group X exported after 3 March 1998 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for system B licences for apples for destination group X submitted pursuant to Article 1 of Regulation (EC) No 8/98, export declarations for which are accepted after 3 March and before 18 March 1998, are hereby rejected.

Article 2

This Regulation shall enter into force on 4 March 1998.

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

Done at Brussels, 3 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 292, 15. 11. 1996, p. 12.

⁽²⁾ OJ L 22, 29. 1. 1998, p. 8.

⁽³⁾ OJ L 3, 7. 1. 1998, p. 5.

COMMISSION REGULATION (EC) No 509/98
of 3 March 1998
amending representative prices and additional duties for the import of certain
products in the sugar sector

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

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

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽³⁾, as last amended by Regulation (EC) No 1143/97 ⁽⁴⁾, and in particular the second subparagraph of Article 1 (2), and Article 3 (1) thereof,

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1222/97 ⁽⁵⁾, as last amended by Regulation (EC) No 500/98 ⁽⁶⁾;

Whereas it follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 4 March 1998.

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

Done at Brussels, 3 March 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 141, 24. 6. 1995, p. 16.

⁽⁴⁾ OJ L 165, 24. 6. 1997, p. 11.

⁽⁵⁾ OJ L 173, 1. 7. 1997, p. 3.

⁽⁶⁾ OJ L 62, 3. 3. 1998, p. 27.

ANNEX

to the Commission Regulation of 3 March 1998 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	22,31	5,15
1701 11 90 ⁽¹⁾	22,31	10,38
1701 12 10 ⁽¹⁾	22,31	4,96
1701 12 90 ⁽¹⁾	22,31	9,95
1701 91 00 ⁽²⁾	24,59	13,19
1701 99 10 ⁽²⁾	24,59	8,42
1701 99 90 ⁽²⁾	24,59	8,42
1702 90 99 ⁽³⁾	0,25	0,40

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

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

⁽³⁾ By 1 % sucrose content.

II

(Acts whose publication is not obligatory)

CONFERENCE OF THE REPRESENTATIVES
OF THE GOVERNMENTS OF THE MEMBER STATES

DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF
THE MEMBER STATES

of 18 February 1998

appointing an Advocate-General to the Court of Justice of the European
Communities

(98/169/EC, ECSC, Euratom)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE
MEMBER STATES OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Community, and in particular Article 167 thereof,

Having regard to the Treaty establishing the European
Coal and Steel Community, and in particular Article 32b
thereof,

Having regard to the Treaty establishing the European
Atomic Energy Community, and in particular Article 139
thereof,

Whereas, pursuant to Articles 7 and 8 of the Protocol on
the Statute of the Court of Justice of the European
Community and to the corresponding provisions of the
Protocols on the Statutes of the Court of Justice of the
European Coal and Steel Community and of the Euro-
pean Atomic Energy Community and consequent on the
resignation of Mr Guiseppe Tesauo, Advocate-General at
the Court of Justice of the European Communities, an
Advocate-General should be appointed to replace Mr

Guiseppe Tesauo for the remainder of his term of office,
which runs until 6 October 2000,

HAVE DECIDED AS FOLLOWS:

Article 1

Mr Antonio Saggio is hereby appointed an Advocate-
General at the Court of Justice of the European
Communities from the date of his swearing-in until 6
October 2000.

Article 2

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

Done at Brussels, 18 February 1998.

The President
S. WALL

DECISION OF THE REPRESENTATIVES OF THE MEMBER STATES
of 18 February 1998
appointing a member of the Court of First Instance of the European
Communities

(98/170/EC, ECSC, Euratom)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 168a thereof,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 32d thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 104a thereof,

Having regard to Council Decision 88/591/ECSC, EEC, Euratom of 24 October 1988 establishing a Court of First Instance of the European Communities ⁽¹⁾,

Whereas, pursuant to Articles 7 and 44 for the Protocol on the Statute of the Court of Justice of the European Community and to the corresponding provisions of the Protocols on the Statutes of the Court of Justice of the European Coal and Steel Community and of the European Atomic Energy Community, a member of the Court of First Instance of the European Communities should be appointed to replace Mr Antonio Saggio, who has been

appointed an Advocate-General at the Court of Justice, for the remainder of the latter's term of office, which runs until 31 August 2001,

HAS DECIDED AS FOLLOWS:

Article 1

Mr Paolo Mengozzi is hereby appointed a member of the Court of First Instance of the European Communities for the period from the date of his swearing-in until 31 August 2001.

Article 2

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

Done at Brussels, 18 February 1998

The President

S. WALL

⁽¹⁾ OJ L 319, 25. 11. 1988, p. 1. Decision as last amended by the 1994 Act of Accession.

COUNCIL

COUNCIL DECISION

of 23 February 1998

on Community activities concerning analysis, research and cooperation in the field of employment and the labour market

(98/171/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

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

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

- (1) Whereas the Economic and Social Committee and the Committee of the Regions delivered their Opinions on 26 October 1995 ⁽³⁾ and 8 November 1995 respectively;
- (2) Whereas, in accordance with Article 118 of the Treaty, the Commission has the task of promoting close cooperation between Member States in the social field, particularly in matters relating to employment and vocational training;
- (3) Whereas the Commission, in its medium-term social action programme, announced its intention to propose a new approach to its activities of analysis, research, cooperation and action in order to foster closer and more effective collaboration between itself and the Member States in the area of policy on employment and the labour market and to promote the rationalisation of its research work and other activities in the area of employment policies;
- (4) Whereas the Amsterdam European Council on 16 and 17 June 1997 noted the agreement reached on incorporation in the Treaty, without prejudice to the ratification procedures, of a new title on employment; whereas it indicated that the Council should seek to make the relevant provisions of this Title immediately effective; whereas in its Resolution on growth and employment, recalling the conclusions of the Essen European Council, the Commission's initiative for 'Action on employ-

ment — a confidence pact' and the Dublin declaration on employment of 13 and 14 December 1996, it reaffirmed that it was imperative to give a new impulse for keeping employment firmly at the top of the political agenda of the European Union;

- (5) Whereas the Council, in the field of Labour and Social Affairs and Economic and Financial Affairs, and the Commission, have been invited to keep a close track of employment trends and to examine the relevant policies of the Member States;
- (6) Whereas, therefore, Community activities with the aim of analysis, research and cooperation in the field of employment and the labour market should be promoted; whereas the activities set out in this Decision have the effect of renewing and rationalising Community action in this area; whereas it is important that statistics in the field of employment and the labour market should be collected, analysed and presented by sex;
- (7) Whereas the appropriate powers for the implementation of these policies should be conferred upon the Commission;
- (8) Whereas, in accordance with the conclusions of the Amsterdam European Council, this approach can, without prejudice to the Member States' responsibilities in promoting employment, produce Community added value by pinpointing and encouraging best practices and policies, promoting innovation and exchanging relevant experience; whereas those policies must be backed by an active information policy;
- (9) Whereas, within this framework, the European Council called upon the Member States to intervene actively in the labour market, underlining the vitally important link between job creation, employability and social cohesion;

⁽¹⁾ OJ C 235, 9. 9. 1995, p. 8 and OJ C 342, 14. 11. 1996, p. 6.

⁽²⁾ OJ C 166, 10. 6. 1996, p. 179.

⁽³⁾ OJ C 18, 22. 1. 1996, p. 109.

- (10) Whereas it is important to establish appropriate links with the Employment and Labour Market Committee, set up by Decision 97/16/EC⁽¹⁾, as well as with the social partners;
- (11) Whereas a financial reference amount within the meaning of point 2 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995, has been included in this Decision, without prejudice to the powers of the budgetary authority as they are defined by the Treaty;
- (12) Whereas, in accordance with the Joint Declaration of 30 June 1982⁽²⁾ and with the Interinstitutional Agreement of 29 October 1993 on budgetary discipline and improvement of the budgetary procedure⁽³⁾, it is necessary for actions taken on the initiative of the Commission to have a legal basis;
- (13) Whereas, the adoption of the Treaty does not provide, for the adoption of this Decision powers other than those referred to in Article 235,

HAS DECIDED AS FOLLOWS:

Article 1

Establishment of Community activities

1. Community activities concerning analysis, research and cooperation among the Member States in the field of employment and the labour market are hereby established for the period from 1 January 1998 to 31 December 2000.
2. In accordance with the guidelines agreed by the European Council, these activities shall contribute to the development of the coordinated strategy for employment through the monitoring and support of actions carried out in the Member States, with due regard for the latter's responsibilities in this field.

Article 2

Objectives

1. The activities referred to in this Decision involve the renewal and rationalisation of Community action concerning analysis, research and exchange of information and experience in the field of employment and the labour market, taking into account experience gained through earlier actions.
2. They aim at:
 - fostering cooperation in analysis, research and monitoring,

- identifying best practices and promoting exchanges and transfers of information and experience,
- developing an active information policy.

Article 3

Community measures

1. With a view to achieving the objectives referred to in Article 2 and bearing in mind the European Council's conclusions on employment, the activities referred to in this Decision develop an integrated approach, in co-operation with the agents concerned, including the social partners, at the appropriate level in the Member States, through the following implementing measures:
 - (a) developing the survey, analysis, research and monitoring of their employment policies and of progress achieved in their labour markets;
 - (b) promoting exchanges of information, experience and best practices through methodological and technical support;
 - (c) prompt dissemination of the results of initiatives undertaken and any other relevant information.

2. With this in mind, the Commission shall seek to promote, in particular, the identification, transfer and dissemination of measures which directly or indirectly assist certain groups of people particularly affected by unemployment, in particular young people, women and older persons, as well as those affected by long-term unemployment.

3. In implementing the measures referred to in paragraph 1, the Commission shall take into account the statistical data, studies and project reports available from international organisations such as the Organisation for Economic Cooperation and Development (OECD) and the International Labour Organisation (ILO).

Article 4

Consistency and complementarity

The Commission and the Member States shall ensure that the measures implemented under this Decision and the other relevant Community programmes and initiatives are consistent with each other and complementary.

Article 5

Participation of other countries

1. The activities which may be open to participation by the countries of the European Economic Area, the associated countries of Central and Eastern Europe (CEE), Cyprus and Malta and Mediterranean countries which are partners of the European Union shall be defined in the context of the European Union's relations with those countries.

⁽¹⁾ OJ L 6, 10. 1. 1997, p. 32.

⁽²⁾ OJ C 194, 28. 7. 1982, p. 1.

⁽³⁾ OJ C 331, 7. 12. 1993, p. 1.

2. The cost of the participation referred to in paragraph 1 shall be borne either by the countries concerned or under the Community budget headings covering implementation of the cooperation, association or partnership agreements with those countries in the area concerned.

Article 6

Implementation

The Commission shall implement these activities in accordance with this Decision.

Article 7

Committee

1. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

2. The Committee shall deliver opinions on the following points:

- (a) — general guidelines for the Community activities referred to in this Decision,
— the annual programme of work and matters concerning the financial breakdown of the activities referred to in this Decision;
- (b) — detailed rules for selecting activities supported by the Community, the criteria for monitoring and assessing such activities individually and as a whole and the procedure for disseminating and transferring the results.

3. With regard to the matters referred to in paragraph 2(a), the representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event:

- the Commission shall defer application of the measures which it has decided for a period of two months,
- the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the first indent.

4. With regard to the matters referred to in paragraph 2(b), the representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft,

within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 8

Links to be established

The Commission shall establish the necessary links with the Employment and Labour Market Committee as well as with the social partners within the framework of the activities referred to in this Decision.

The Commission shall inform the European social partners at their request of the results of the activities of the Committee referred to in Article 7.

Article 9

Financing

1. The financial reference amount for the implementation of the Community activities referred to in this Decision for the period 1 January 1998 to 31 December 2000 shall be ECU 30 million.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 10

Reports

The Commission shall submit an interim report on the results of the activities to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions by 31 December 1999 at the latest, and a final report by 31 December 2001 at the latest.

Article 11

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

Done at Brussels, 23 February 1998.

For the Council

The President

R. COOK

COMMISSION

COMMISSION DECISION

of 17 February 1998

amending Council Decision 95/514/EC on the equivalence of field inspections carried out in third countries on seed producing crops and on the equivalence of seed produced in third countries

(98/172/EC)

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

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed⁽¹⁾, as last amended by Directive 96/72/EC⁽²⁾ and in particular Article 16(1) thereof,

Having regard to Council Decision 95/514/EC of 29 November 1995 on the equivalence of field inspections carried out in third countries on seed producing crops and on the equivalence of seed produced in third countries⁽³⁾, as last amended by Decision 97/33/EC⁽⁴⁾, and in particular Article 5 thereof,

Whereas in its Decision 95/514/EC the Council determined that field inspections carried out in certain countries on seed producing crops of certain species satisfied the conditions laid down in Directive 66/401/EEC;

Whereas in its Decision 95/514/EC the Council also determined that seed of certain species produced in certain third countries was equivalent to corresponding seed produced in the Community;

Whereas for certain species those determinations include Turkey;

Whereas an examination of the rules in Turkey and the manner in which they are applied has shown that in respect of the species listed in Directive 66/401/EEC the prescribed field inspections satisfy the conditions laid down in Annex I to this Directive and the conditions governing seed harvested and controlled there afford the

same assurances as regards the seed's characteristics, identity, examination, marking and control as do the conditions applicable to such seed harvested and controlled within the Community;

Whereas the existing equivalence for Turkey should therefore be extended accordingly;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

In the entry relating to Turkey in Part I of the Annex to Decision 95/514/EC, '66/401/EEC' is inserted after the entry relating to '66/400/EEC'.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 17 February 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ 125, 11. 7. 1966, p. 2298/66.

⁽²⁾ OJ L 304, 27. 11. 1996, p. 10.

⁽³⁾ OJ L 296, 9. 12. 1995, p. 34.

⁽⁴⁾ OJ L 13, 16. 1. 1997, p. 31.

COMMISSION DECISION

of 17 February 1998

amending Decision 95/232/EC on the organisation of a temporary experiment under Council Directive 69/208/EEC in order to establish conditions to be satisfied by the seed of hybrids and varietal associations of swede rape and turnip rape

(Text with EEA relevance)

(98/173/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 69/208/EEC of 30 June 1969 on the marketing of seed of oil and fibre plants⁽¹⁾, as last amended by Council Directive 96/72/EC⁽²⁾, and in particular Article 12a thereof,Whereas Commission Decision 95/232/EC⁽³⁾, established a temporary experiment under specified conditions with the aim of establishing the conditions to be satisfied by the seed of hybrids and varietal associations of swede rape and turnip rape;

Whereas in the light of the experience gained in the course of the experiment which expires on 31 December 1997 further information needs to be collected at Community level with a view to drawing proper conclusions for possible future adaptations of Community provisions;

Whereas it is therefore, desirable to extend the period of the experiment under the same conditions with the aim of assessing whether adaptations should be made to the Community provisions in the future;

Whereas it is necessary not to interrupt the continuity of the experiment;

Whereas the measures contained in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

In Article 5(3) and (5) of Decision 95/232/EC the date of 31 December 1997 is replaced by 31 December 1998.

Article 2

This Decision shall enter into force on 31 December 1997.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 17 February 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 169, 10. 7. 1969, p. 3.⁽²⁾ OJ L 304, 27. 11. 1996, p. 10.⁽³⁾ OJ L 154, 5. 7. 1995, p. 22.

COMMISSION DECISION

of 17 February 1998

amending Commission Decision 94/650/EEC on the organisation of a temporary experiment on the marketing of seed in bulk to the final consumer

(Text with EEA relevance)

(98/174/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed ⁽¹⁾, as last amended by Council Directive 96/72/EC ⁽²⁾, and in particular Article 13a thereof,

Having regard to Council Directive 66/402/EC of 14 June 1966 on the marketing of cereal seed ⁽³⁾, as last amended by Council Directive 96/72/EC and in particular Article 13a thereof,

Whereas Commission Decision 94/650/EC ⁽⁴⁾ established a temporary experiment at Community level with the aim of assessing whether the marketing of seed in bulk to the final consumer could bring about a substantial saving of costs in relation to the packing, the packaging material and subsequent disposal thereof, without resulting in any adverse effect on the quality of the seed compared with the level of quality achieved under the present system;

Whereas in the light of experience gained in the course of the experiment which lasts until 31 December 1997 these statements cannot yet be confirmed at Community level, on the basis of the information available;

Whereas it is therefore useful to extend the period of the experiment under the same conditions with the aim of assessing whether the above statements can be sustained at Community level;

Whereas it is necessary not to interrupt the continuity of the experiment;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

In Article 4(4) of Decision 94/650/EC the date of 31 December 1997 is replaced by 30 June 2000 in both places in which it appears.

Article 2

This Decision shall enter into force on 31 December 1997.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 17 February 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ 125, 11. 7. 1966, p. 2298/66.

⁽²⁾ OJ L 304, 27. 11. 1996, p. 10.

⁽³⁾ OJ 125, 11. 7. 1966, p. 2309/66.

⁽⁴⁾ OJ L 252, 28. 9. 1994, p. 15.

COMMISSION DECISION

of 3 March 1998

terminating the anti-dumping proceeding concerning imports of certain magnetic disks (3,5" microdisks) originating in Canada, Macao and Thailand

(98/175/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995, on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as amended by Regulation (EC) No 2331/96 ⁽²⁾, and in particular Articles 9 and 23 thereof,

After consulting the Advisory Committee,

Whereas:

- (1) On 6 April 1995, the Commission announced, by a notice published in the *Official Journal of the European Communities* ⁽³⁾ the initiation of an anti-dumping proceeding with regard to imports into the Community of certain magnetic disks (3,5" microdisks) originating in Canada, Indonesia, Macao and Thailand, and commenced an investigation.

The investigation period for the examination of dumping was from 1 March 1994 to 28 February 1995 (hereinafter referred to as the 'investigation period').

As far as Indonesia is concerned, the results of this investigation are laid down in Commission Regulation (EC) No 502/98 ⁽⁴⁾.

1. Canada

- (2) The investigation revealed that imports from Canada increased from 3,8 million units in 1992 to 22,3 million in the investigation period. In relation to the total volume of Community imports of the product concerned in the investigation period, 834 million units, imports from Canada can be considered as not constituting a cause of material injury to the Community industry in the sense of Article

9(3) of Council Regulation (EC) No 384/96 (hereinafter referred to as the 'basic Regulation') or the provisions of Article 5(8) of the WTO Anti-Dumping Agreement Code.

2. Macao

- (3) A recent Commission investigation into the origin of 200 million 3,5" microdisks imported into the Community from Macao since 1993 has shown that all microdisks exported from Macao during the investigation period in fact originated either in Taiwan or in the People's Republic of China. Consequently, there were no exports of the product subject to this proceeding that originated in Macao, and no determination of dumping and injury was therefore required.

3. Thailand

- (4) The Commission established that 8,9 million microdisks (or 20 % of the total quantity exported by the Thai companies during the investigation period) could be considered as having Thai origin. Moreover, a separate Commission investigation covering, but not confined to, the investigation period found no evidence of any other exports of Thai origin. On this basis, exports of Thai origin constituted less than 1 % of total Community consumption in the investigation period and, according to Article 9(3) of the basic Regulation, have to be considered negligible.

4. Conclusions

- (5) It follows from the above that protective measures are unnecessary with regard to the imports of 3,5" microdisks originating in Canada, Macao and Thailand. Therefore, in accordance with Article 9(2) of the basic Regulation, the proceeding should be terminated with regard to the imports from these three countries,

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 317, 6. 12. 1996, p. 1.

⁽³⁾ OJ C 84, 6. 4. 1995, p. 4.

⁽⁴⁾ See page 4 of this Official Journal.

HAS ADOPTED THIS DECISION:

Sole Article

The anti-dumping proceeding concerning imports of certain magnetic disks (3,5" micro-disks) originating in Canada, Macao and Thailand is hereby terminated.

Done at Brussels, 3 March 1998.

For the Commission

Leon BRITTAN

Vice-President
