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

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2725/2000

of 11 December 2000

concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63 point (1)(a) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Whereas:

(1) Member States have ratified the Geneva Convention of 28 July 1951, as amended by the New York Protocol of 31 January 1967, relating to the Status of Refugees.

(2) Member States have concluded the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed in Dublin on 15 June 1990 (hereinafter referred to as 'the Dublin Convention') [2].

(3) For the purposes of applying the Dublin Convention, it is necessary to establish the identity of applicants for asylum and of persons apprehended in connection with the unlawful crossing of the external borders of the Community. It is also desirable, in order effectively to apply the Dublin Convention, and in particular points (c) and (e) of Article 10(1) thereof, to allow each Member State to check whether an alien found illegally present on its territory has applied for asylum in another Member State.

(4) Fingerprints constitute an important element in establishing the exact identity of such persons. It is necessary to set up a system for the comparison of their fingerprint data.

(5) To this end, it is necessary to set up a system known as 'Eurodac', consisting of a Central Unit, to be established within the Commission and which will operate a computerised central database of fingerprint data, as well as of the electronic means of transmission between the Member States and the central database.

(6) It is also necessary to require the Member States promptly to take fingerprints of every applicant for asylum and of every alien who is apprehended in connection with the irregular crossing of an external border of a Member State, if they are at least 14 years of age.

(7) It is necessary to lay down precise rules on the transmission of such fingerprint data to the Central Unit, the recording of such fingerprint data and other relevant data in the central database, their storage, their comparison with other fingerprint data, the transmission of the results of such comparison and the blocking and erasure of the recorded data. Such rules may be different for, and should be specifically adapted to, the situation of different categories of aliens.

(8) Aliens who have requested asylum in one Member State may have the option of requesting asylum in another Member State for many years to come. Therefore, the maximum period during which fingerprint data should be kept by the Central Unit should be of considerable length. Given that most aliens who have stayed in the Community for several years will have obtained a settled status or even citizenship of a Member State after that period, a period of ten years should be considered a reasonable period for the conservation of fingerprint data.

(9) The conservation period should be shorter in certain special situations where there is no need to keep fingerprint data for that length of time. Fingerprint data should be erased immediately once aliens obtain citizenship of a Member State.

[1] OJ C 189, 7.7.2000, p. 105 and p. 227 and opinion delivered on 21 September 2000 (not yet published in the Official Journal).
[2] OJ C 254, 19.8.1997, p. 1.

(10) It is necessary to lay down clearly the respective responsibilities of the Commission, in respect of the Central Unit, and of the Member States, as regards data use, data security, access to, and correction of, recorded data.

(11) While the non-contractual liability of the Community in connection with the operation of the Eurodac system will be governed by the relevant provisions of the Treaty, it is necessary to lay down specific rules for the non-contractual liability of the Member States in connection with the operation of the system.

(12) In accordance with the principle of subsidiarity as set out in Article 5 of the Treaty, the objective of the proposed measures, namely the creation within the Commission of a system for the comparison of fingerprint data to assist the implementation of the Community's asylum policy, cannot, by its very nature, be sufficiently achieved by the Member States and can therefore be better achieved by the Community. In accordance with the principle of proportionality as set out in the said Article, this Regulation does not go beyond what is necessary to achieve that objective.

(13) Since the Member States alone are responsible for identifying and classifying the results of comparisons transmitted by the Central Unit as well as for the blocking of data relating to persons admitted and recognised as refugees and since this responsibility concerns the particularly sensitive area of the processing of personal data and could affect the exercise of individual freedoms, there are specific grounds for the Council reserving for itself the exercise of certain implementing powers, relating in particular to the adoption of measures ensuring the safety and reliability of such data.

(14) The measures necessary for the implementation of other measures of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [1].

(15) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [2] applies to the processing of personal data by the Member States within the framework of the Eurodac system.

(16) By virtue of Article 286 of the Treaty, Directive 95/46/EC also applies to Community institutions and bodies. Since the Central Unit will be established within the Commission, that Directive will apply to the processing of personal data by that Unit.

(17) The principles set out in Directive 95/46/EC regarding the protection of the rights and freedoms of individuals, notably their right to privacy, with regard to the processing of personal data should be supplemented or clarified, in particular as far as certain sectors are concerned.

(18) It is appropriate to monitor and evaluate the performance of Eurodac.

(19) Member States should provide for a system of penalties to sanction the use of data recorded in the central database contrary to the purpose of Eurodac.

(20) The United Kingdom and Ireland, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty establishing the European Community, have given notice of their wish to take part in the adoption and application of this Regulation.

(21) Denmark, in accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the said Treaties, is not participating in the adoption of this Regulation and is therefore not bound by it nor subject to its application.

(22) It is appropriate to restrict the territorial scope of this Regulation so as to align it on the territorial scope of the Dublin Convention.

(23) This Regulation should serve as legal basis for the implementing rules which, with a view to its rapid application, are required for the establishment of the necessary technical arrangements by the Member States and the Commission. The Commission should be charged with verifying that those conditions are fulfilled,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Purpose of 'Eurodac'

1. A system known as 'Eurodac' is hereby established, the purpose of which shall be to assist in determining which Member State is to be responsible pursuant to the Dublin Convention for examining an application for asylum lodged in a Member State, and otherwise to facilitate the application of the Dublin Convention under the conditions set out in this Regulation.

[1] OJ L 184, 17.7.1999, p. 23.
[2] OJ L 281, 23.11.1995, p. 31.

2. Eurodac shall consist of:

(a) the Central Unit referred to in Article 3;

(b) a computerised central database in which the data referred to in Article 5(1), Article 8(2) and Article 11(2) are processed for the purpose of comparing the fingerprint data of applicants for asylum and of the categories of aliens referred to in Article 8(1) and Article 11(1);

(c) means of data transmission between the Member States and the central database.

The rules governing Eurodac shall also apply to operations effected by the Member States as from the transmission of data to the Central Unit until use is made of the results of the comparison.

3. Without prejudice to the use of data intended for Eurodac by the Member State of origin in databases set up under the latter's national law, fingerprint data and other personal data may be processed in Eurodac only for the purposes set out in Article 15(1) of the Dublin Convention.

Article 2

Definitions

1. For the purposes of this Regulation:

(a) 'the Dublin Convention' means the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed at Dublin on 15 June 1990;

(b) an 'applicant for asylum' means an alien who has made an application for asylum or on whose behalf such an application has been made;

(c) 'Member State of origin' means:

(i) in relation to an applicant for asylum, the Member State which transmits the personal data to the Central Unit and receives the results of the comparison;

(ii) in relation to a person covered by Article 8, the Member State which transmits the personal data to the Central Unit;

(iii) in relation to a person covered by Article 11, the Member State which transmits such data to the Central Unit and receives the results of the comparison;

(d) 'refugee' means a person who has been recognised as a refugee in accordance with the Geneva Convention on Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967;

(e) 'hit' shall mean the existence of a match or matches established by the Central Unit by comparison between fingerprint data recorded in the databank and those transmitted by a Member State with regard to a person, without prejudice to the requirement that Member States shall immediately check the results of the comparison pursuant to Article 4(6).

2. The terms defined in Article 2 of Directive 95/46/EC shall have the same meaning in this Regulation.

3. Unless stated otherwise, the terms defined in Article 1 of the Dublin Convention shall have the same meaning in this Regulation.

Article 3

Central Unit

1. A Central Unit shall be established within the Commission which shall be responsible for operating the central database referred to in Article 1(2)(b) on behalf of the Member States. The Central Unit shall be equipped with a computerised fingerprint recognition system.

2. Data on applicants for asylum, persons covered by Article 8 and persons covered by Article 11 which are processed at the Central Unit shall be processed on behalf of the Member State of origin under the conditions set out in this Regulation.

3. The Central Unit shall draw up statistics on its work every quarter, indicating:

(a) the number of data sets transmitted on applicants for asylum and the persons referred to in Articles 8(1) and 11(1);

(b) the number of hits for applicants for asylum who have lodged an application for asylum in another Member State;

(c) the number of hits for persons referred to in Article 8(1) who have subsequently lodged an application for asylum;

(d) the number of hits for persons referred to in Article 11(1) who had previously lodged an application for asylum in another Member State;

(e) the number of fingerprint data which the Central Unit had to request a second time from the Member States of origin because the fingerprint data originally transmitted did not lend themselves to comparison using the computerised fingerprint recognition system.

At the end of each year, statistical data shall be established in the form of a compilation of the quarterly statistics drawn up since the beginning of Eurodac's activities, including an indication of the number of persons for whom hits have been recorded under (b), (c) and (d).

The statistics shall contain a breakdown of data for each Member State.

4. Pursuant to the procedure laid down in Article 23(2), the Central Unit may be charged with carrying out certain other statistical tasks on the basis of the data processed at the Central Unit.

CHAPTER II

APPLICANTS FOR ASYLUM

Article 4

Collection, transmission and comparison of fingerprints

1. Each Member State shall promptly take the fingerprints of all fingers of every applicant for asylum of at least 14 years of age and shall promptly transmit the data referred to in points (a) to (f) of Article 5(1) to the Central Unit. The procedure for taking fingerprints shall be determined in accordance with the national practice of the Member State concerned and in accordance with the safeguards laid down in the European Convention on Human Rights and in the United Nations Convention on the Rights of the Child.

2. The data referred to in Article 5(1) shall be immediately recorded in the central database by the Central Unit, or, provided that the technical conditions for such purposes are met, directly by the Member State of origin.

3. Fingerprint data within the meaning of point (b) of Article 5(1), transmitted by any Member State, shall be compared by the Central Unit with the fingerprint data transmitted by other Member States and already stored in the central database.

4. The Central Unit shall ensure, on the request of a Member State, that the comparison referred to in paragraph 3 covers the fingerprint data previously transmitted by that Member State, in addition to the data from other Member States.

5. The Central Unit shall forthwith transmit the hit or the negative result of the comparison to the Member State of origin. Where there is a hit, it shall transmit for all data sets corresponding to the hit, the data referred to in Article 5(1), although in the case of the data referred to in Article 5(1)(b), only insofar as they were the basis for the hit.

Direct transmission to the Member State of origin of the result of the comparison shall be permissible where the technical conditions for such purpose are met.

6. The results of the comparison shall be immediately checked in the Member State of origin. Final identification shall be made by the Member State of origin in cooperation with the Member States concerned, pursuant to Article 15 of the Dublin Convention.

Information received from the Central Unit relating to other data found to be unreliable shall be erased or destroyed as soon as the unreliability of the data is established.

7. The implementing rules setting out the procedures necessary for the application of paragraphs 1 to 6 shall be adopted in accordance with the procedure laid down in Article 22(1).

Article 5

Recording of data

1. Only the following data shall be recorded in the central database:

(a) Member State of origin, place and date of the application for asylum;

(b) fingerprint data;

(c) sex;

(d) reference number used by the Member State of origin;

(e) date on which the fingerprints were taken;

(f) date on which the data were transmitted to the Central Unit;

(g) date on which the data were entered in the central database;

(h) details in respect of the recipient(s) of the data transmitted and the date(s) of transmission(s).

2. After recording the data in the central database, the Central Unit shall destroy the media used for transmitting the data, unless the Member State of origin has requested their return.

Article 6

Data storage

Each set of data, as referred to in Article 5(1), shall be stored in the central database for ten years from the date on which the fingerprints were taken.

Upon expiry of this period, the Central Unit shall automatically erase the data from the central database.

Article 7

Advance data erasure

Data relating to a person who has acquired citizenship of any Member State before expiry of the period referred to in Article 6 shall be erased from the central database, in accordance with Article 15(3) as soon as the Member State of origin becomes aware that the person has acquired such citizenship.

CHAPTER III

ALIENS APPREHENDED IN CONNECTION WITH THE IRREGULAR CROSSING OF AN EXTERNAL BORDER

Article 8

Collection and transmission of fingerprint data

1. Each Member State shall, in accordance with the safeguards laid down in the European Convention on Human Rights and in the United Nations Convention on the Rights of the Child, promptly take the fingerprints of all fingers of every alien of at least 14 years of age who is apprehended by the competent control authorities in connection with the irregular crossing by land, sea or air of the border of that Member State having come from a third country and who is not turned back.

2. The Member State concerned shall promptly transmit to the Central Unit the following data in relation to any alien, as referred to in paragraph 1, who is not turned back:

(a) Member State of origin, place and date of the apprehension;

(b) fingerprint data;

(c) sex;

(d) reference number used by the Member State of origin;

(e) date on which the fingerprints were taken;

(f) date on which the data were transmitted to the Central Unit.

Article 9

Recording of data

1. The data referred to in Article 5(1)(g) and in Article 8(2) shall be recorded in the central database.

Without prejudice to Article 3(3), data transmitted to the Central Unit pursuant to Article 8(2) shall be recorded for the sole purpose of comparison with data on applicants for asylum transmitted subsequently to the Central Unit.

The Central Unit shall not compare data transmitted to it pursuant to Article 8(2) with any data previously recorded in the central database, nor with data subsequently transmitted to the Central Unit pursuant to Article 8(2).

2. The procedures provided for in Article 4(1), second sentence, Article 4(2) and Article 5(2) as well as the provisions laid down pursuant to Article 4(7) shall apply. As regards the comparison of data on applicants for asylum subsequently transmitted to the Central Unit with the data referred to in paragraph 1, the procedures provided for in Article 4(3), (5) and (6) shall apply.

Article 10

Storage of data

1. Each set of data relating to an alien as referred to in Article 8(1) shall be stored in the central database for two years from the date on which the fingerprints of the alien were taken. Upon expiry of this period, the Central Unit shall automatically erase the data from the central database.

2. The data relating to an alien as referred to in Article 8(1) shall be erased from the central database in accordance with Article 15(3) immediately, if the Member State of origin becomes aware of one of the following circumstances before the two-year period mentioned in paragraph 1 has expired:

(a) the alien has been issued with a residence permit;

(b) the alien has left the territory of the Member States;

(c) the alien has acquired the citizenship of any Member State.

CHAPTER IV

ALIENS FOUND ILLEGALLY PRESENT IN A MEMBER STATE

Article 11

Comparison of fingerprint data

1. With a view to checking whether an alien found illegally present within its territory has previously lodged an application for asylum in another Member State, each Member State may transmit to the Central Unit any fingerprint data relating to fingerprints which it may have taken of any such alien of at least 14 years of age together with the reference number used by that Member State.

As a general rule there are grounds for checking whether the alien has previously lodged an application for asylum in another Member State where:

(a) the alien declares that he/she has lodged an application for asylum but without indicating the Member State in which he/she made the application;

(b) the alien does not request asylum but objects to being returned to his/her country of origin by claiming that he/she would be in danger, or

(c) the alien otherwise seeks to prevent his/her removal by refusing to cooperate in establishing his/her identity, in particular by showing no, or false, identity papers.

2. Where Member States take part in the procedure referred to in paragraph 1, they shall transmit to the Central Unit the fingerprint data relating to all or at least the index fingers, and, if those are missing, the prints of all other fingers, of aliens referred to in paragraph 1.

3. The fingerprint data of an alien as referred to in paragraph 1 shall be transmitted to the Central Unit solely for the purpose of comparison with the fingerprint data of applicants for asylum transmitted by other Member States and already recorded in the central database.

The fingerprint data of such an alien shall not be recorded in the central database, nor shall they be compared with the data transmitted to the Central Unit pursuant to Article 8(2).

4. As regards the comparison of fingerprint data transmitted under this Article with the fingerprint data of applicants for asylum transmitted by other Member States which have already been stored in the Central Unit, the procedures provided for in Article 4(3), (5) and (6) as well as the provisions laid down pursuant to Article 4(7) shall apply.

5. Once the results of the comparison have been transmitted to the Member State of origin, the Central Unit shall forthwith:

(a) erase the fingerprint data and other data transmitted to it under paragraph 1; and

(b) destroy the media used by the Member State of origin for transmitting the data to the Central Unit, unless the Member State of origin has requested their return.

CHAPTER V

RECOGNISED REFUGEES

Article 12

Blocking of data

1. Data relating to an applicant for asylum which have been recorded pursuant to Article 4(2) shall be blocked in the central database if that person is recognised and admitted as a refugee in a Member State. Such blocking shall be carried out by the Central Unit on the instructions of the Member State of origin.

As long as a decision pursuant to paragraph 2 has not been adopted, hits concerning persons who have been recognised and admitted as refugees in a Member State shall not be transmitted. The Central Unit shall return a negative result to the requesting Member State.

2. Five years after Eurodac starts operations, and on the basis of reliable statistics compiled by the Central Unit on persons who have lodged an application for asylum in a Member State after having been recognised and admitted as refugees in another Member State, a decision shall be taken in accordance with the relevant provisions of the Treaty, as to whether the data relating to persons who have been recognised and admitted as refugees in a Member State should:

(a) be stored in accordance with Article 6 for the purpose of the comparison provided for in Article 4(3); or

(b) be erased in advance once a person has been recognised and admitted as a refugee.

3. In the case referred to in paragraph 2(a), the data blocked pursuant to paragraph 1 shall be unblocked and the procedure referred to in paragraph 1 shall no longer apply.

4. In the case referred to in paragraph 2(b):

(a) data which have been blocked in accordance with paragraph 1 shall be erased immediately by the Central Unit; and

(b) data relating to persons who are subsequently recognised and admitted as refugees shall be erased in accordance with Article 15(3), as soon as the Member State of origin becomes aware that the person has been recognised and admitted as a refugee in a Member State.

5. The implementing rules concerning the procedure for the blocking of data referred to in paragraph 1 and the compilation of statistics referred to in paragraph 2 shall be adopted in accordance with the procedure laid down in Article 22(1).

CHAPTER VI

DATA USE, DATA PROTECTION AND LIABILITY

Article 13

Responsibility for data use

1. The Member State of origin shall be responsible for ensuring that:

(a) fingerprints are taken lawfully;

(b) fingerprint data and the other data referred to in Article 5(1), Article 8(2) and Article 11(2) are lawfully transmitted to the Central Unit;

(c) data are accurate and up-to-date when they are transmitted to the Central Unit;

(d) without prejudice to the responsibilities of the Commission, data in the central database are lawfully recorded, stored, corrected and erased;

(e) the results of fingerprint data comparisons transmitted by the Central Unit are lawfully used.

2. In accordance with Article 14, the Member State of origin shall ensure the security of the data referred to in paragraph 1 before and during transmission to the Central Unit as well as the security of the data it receives from the Central Unit.

3. The Member State of origin shall be responsible for the final identification of the data pursuant to Article 4(6).

4. The Commission shall ensure that the Central Unit is operated in accordance with the provisions of this Regulation and its implementing rules. In particular, the Commission shall:

(a) adopt measures ensuring that persons working in the Central Unit use the data recorded in the central database only in accordance with the purpose of Eurodac as laid down in Article 1(1);

(b) ensure that persons working in the Central Unit comply with all requests from Member States made pursuant to this Regulation in relation to recording, comparison, correction and erasure of data for which they are responsible;

(c) take the necessary measures to ensure the security of the Central Unit in accordance with Article 14;

(d) ensure that only persons authorised to work in the Central Unit have access to data recorded in the central database, without prejudice to Article 20 and the powers of the independent supervisory body which will be established under Article 286(2) of the Treaty.

The Commission shall inform the European Parliament and the Council of the measures it takes pursuant to the first subparagraph.

Article 14

Security

1. The Member State of origin shall take the necessary measures to:

(a) prevent any unauthorised person from having access to national installations in which the Member State carries out operations in accordance with the aim of Eurodac (checks at the entrance to the installation);

(b) prevent data and data media in Eurodac from being read, copied, modified or erased by unauthorised persons (control of data media);

(c) guarantee that it is possible to check and establish a posteriori what data have been recorded in Eurodac, when and by whom (control of data recording);

(d) prevent the unauthorised recording of data in Eurodac and any unauthorised modification or erasure of data recorded in Eurodac (control of data entry);

(e) guarantee that, in using Eurodac, authorised persons have access only to data which are within their competence (control of access);

(f) guarantee that it is possible to check and establish to which authorities data recorded in Eurodac may be transmitted by data transmission equipment (control of transmission);

(g) prevent the unauthorised reading, copying, modification or erasure of data during both the direct transmission of data to or from the central database and the transport of data media to or from the Central Unit (control of transport).

2. As regards the operation of the Central Unit, the Commission shall be responsible for applying the measures mentioned under paragraph 1.

Article 15

Access to, and correction or erasure of, data recorded in Eurodac

1. The Member State of origin shall have access to data which it has transmitted and which are recorded in the central database in accordance with the provisions of this Regulation.

No Member State may conduct searches in the data transmitted by another Member State, nor may it receive such data apart from data resulting from the comparison referred to in Article 4(5).

2. The authorities of Member States which, pursuant to paragraph 1, have access to data recorded in the central database shall be those designated by each Member State. Each Member State shall communicate to the Commission a list of those authorities.

3. Only the Member State of origin shall have the right to amend the data which it has transmitted to the Central Unit by correcting or supplementing such data, or to erase them, without prejudice to erasure carried out in pursuance of Article 6, Article 10(1) or Article 12(4)(a).

Where the Member State of origin records data directly in the central database, it may amend or erase the data directly.

Where the Member State of origin does not record data directly in the central database, the Central Unit shall amend or erase the data at the request of that Member State.

4. If a Member State or the Central Unit has evidence to suggest that data recorded in the central database are factually inaccurate, it shall advise the Member State of origin as soon as possible.

If a Member State has evidence to suggest that data were recorded in the central database contrary to this Regulation, it shall similarly advise the Member State of origin as soon as possible. The latter shall check the data concerned and, if necessary, amend or erase them without delay.

5. The Central Unit shall not transfer or make available to the authorities of any third country data recorded in the central database, unless it is specifically authorised to do so in the framework of a Community agreement on the criteria and mechanisms for determining the State responsible for examining an application for asylum.

Article 16

Keeping of records by the Central Unit

1. The Central Unit shall keep records of all data processing operations within the Central Unit. These records shall show the purpose of access, the date and time, the data transmitted, the data used for interrogation and the name of both the unit putting in or retrieving the data and the persons responsible.

2. Such records may be used only for the data-protection monitoring of the admissibility of data processing as well as to ensure data security pursuant to Article 14. The records must be protected by appropriate measures against unauthorised access and erased after a period of one year, if they are not required for monitoring procedures which have already begun.

Article 17

Liability

1. Any person who, or Member State which, has suffered damage as a result of an unlawful processing operation or any act incompatible with the provisions laid down in this Regulation shall be entitled to receive compensation from the Member State responsible for the damage suffered. That State shall be exempted from its liability, in whole or in part, if it proves that it is not responsible for the event giving rise to the damage.

2. If failure of a Member State to comply with its obligations under this Regulation causes damage to the central database, that Member State shall be held liable for such damage, unless and insofar as the Commission failed to take reasonable steps to prevent the damage from occurring or to minimise its impact.

3. Claims for compensation against a Member State for the damage referred to in paragraphs 1 and 2 shall be governed by the provisions of national law of the defendant Member State.

Article 18

Rights of the data subject

1. A person covered by this Regulation shall be informed by the Member State of origin of the following:

(a) the identity of the controller and of his representative, if any;

(b) the purpose for which the data will be processed within Eurodac;

(c) the recipients of the data;

(d) in relation to a person covered by Article 4 or Article 8, the obligation to have his/her fingerprints taken;

(e) the existence of the right of access to, and the right to rectify, the data concerning him/her.

In relation to a person covered by Article 4 or Article 8, the information referred to in the first subparagraph shall be provided when his/her fingerprints are taken.

In relation to a person covered by Article 11, the information referred to in the first subparagraph shall be provided no later than the time when the data relating to the person are transmitted to the Central Unit. This obligation shall not apply where the provision of such information proves impossible or would involve a disproportionate effort.

2. In each Member State any data subject may, in accordance with the laws, regulations and procedures of that State, exercise the rights provided for in Article 12 of Directive 95/46/EC.

Without prejudice to the obligation to provide other information in accordance with point (a) of Article 12 of Directive 95/46/EC, the data subject shall have the right to obtain communication of the data relating to him/her recorded in the central database and of the Member State which transmitted them to the Central Unit. Such access to data may be granted only by a Member State.

3. In each Member State, any person may request that data which are factually inaccurate be corrected or that data recorded unlawfully be erased. The correction and erasure shall be carried out without excessive delay by the Member State which transmitted the data, in accordance with its laws, regulations and procedures.

4. If the rights of correction and erasure are exercised in a Member State, other than that, or those, which transmitted the data, the authorities of that Member State shall contact the authorities of the Member State, or States, in question so that the latter may check the accuracy of the data and the lawfulness of their transmission and recording in the central database.

5. If it emerges that data recorded in the central database are factually inaccurate or have been recorded unlawfully, the Member State which transmitted them shall correct or erase the data in accordance with Article 15(3). That Member State shall confirm in writing to the data subject without excessive delay that it has taken action to correct or erase data relating to him/her.

6. If the Member State which transmitted the data does not agree that data recorded in the central database are factually inaccurate or have been recorded unlawfully, it shall explain in writing to the data subject without excessive delay why it is not prepared to correct or erase the data.

That Member State shall also provide the data subject with information explaining the steps which he/she can take if he/she does not accept the explanation provided. This shall include information on how to bring an action or, if appropriate, a complaint before the competent authorities or courts of that Member State and any financial or other assistance that is available in accordance with the laws, regulations and procedures of that Member State.

7. Any request under paragraphs 2 and 3 shall contain all the necessary particulars to identify the data subject, including fingerprints. Such data shall be used exclusively to permit the exercise of the rights referred to in paragraphs 2 and 3 and shall be destroyed immediately afterwards.

8. The competent authorities of the Member States shall cooperate actively to enforce promptly the rights laid down in paragraphs 3, 4 and 5.

9. In each Member State, the national supervisory authority shall assist the data subject in accordance with Article 28(4) of Directive 95/46/EC in exercising his/her rights.

10. The national supervisory authority of the Member State which transmitted the data and the national supervisory authority of the Member State in which the data subject is present shall assist and, where requested, advise him/her in exercising his/her right to correct or erase data. Both national supervisory authorities shall cooperate to this end. Requests for such assistance may be made to the national supervisory authority of the Member State in which the data subject is present, which shall transmit the requests to the authority of the Member State which transmitted the data. The data subject may also apply for assistance and advice to the joint supervisory authority set up by Article 20.

11. In each Member State any person may, in accordance with the laws, regulations and procedures of that State, bring an action or, if appropriate, a complaint before the competent authorities or courts of the State if he/she is refused the right of access provided for in paragraph 2.

12. Any person may, in accordance with the laws, regulations and procedures of the Member State which transmitted the data, bring an action or, if appropriate, a complaint before the competent authorities or courts of that State concerning the data relating to him/her recorded in the central database, in order to exercise his/her rights under paragraph 3. The obligation of the national supervisory authorities to assist and, where requested, advise the data subject, in accordance with paragraph 10, shall subsist throughout the proceedings.

Article 19

National supervisory authority

1. Each Member State shall provide that the national supervisory authority or authorities designated pursuant to Article 28(1) of Directive 95/46/EC shall monitor independently, in accordance with its respective national law, the lawfulness of the processing, in accordance with this Regulation, of personal data by the Member State in question, including their transmission to the Central Unit.

2. Each Member State shall ensure that its national supervisory authority has access to advice from persons with sufficient knowledge of fingerprint data.

Article 20

Joint supervisory authority

1. An independent joint supervisory authority shall be set up, consisting of a maximum of two representatives from the supervisory authorities of each Member State. Each delegation shall have one vote.

2. The joint supervisory authority shall have the task of monitoring the activities of the Central Unit to ensure that the rights of data subjects are not violated by the processing or use of the data held by the Central Unit. In addition, it shall monitor the lawfulness of the transmission of personal data to the Member States by the Central Unit.

3. The joint supervisory authority shall be responsible for the examination of implementation problems in connection with the operation of Eurodac, for the examination of possible difficulties during checks by the national supervisory authorities and for drawing up recommendations for common solutions to existing problems.

4. In the performance of its duties, the joint supervisory authority shall, if necessary, be actively supported by the national supervisory authorities.

5. The joint supervisory authority shall have access to advice from persons with sufficient knowledge of fingerprint data.

6. The Commission shall assist the joint supervisory authority in the performance of its tasks. In particular, it shall supply information requested by the joint supervisory body, give it access to all documents and paper files as well as access to the data stored in the system and allow it access to all its premises, at all times.

7. The joint supervisory authority shall unanimously adopt its rules of procedure. It shall be assisted by a secretariat, the tasks of which shall be defined in the rules of procedure.

8. Reports drawn up by the joint supervisory authority shall be made public and shall be forwarded to the bodies to which the national supervisory authorities submit their reports, as well as to the European Parliament, the Council and the Commission for information. In addition, the joint supervisory authority may submit comments or proposals for improvement regarding its remit to the European Parliament, the Council and the Commission at any time.

9. In the performance of their duties, the members of the joint supervisory authority shall not receive instructions from any government or body.

10. The joint supervisory authority shall be consulted on that part of the draft operating budget of the Eurodac Central Unit which concerns it. Its opinion shall be annexed to the draft budget in question.

11. The joint supervisory authority shall be disbanded upon the establishment of the independent supervisory body referred to in Article 286(2) of the Treaty. The independent supervisory body shall replace the joint supervisory authority and shall exercise all the powers conferred on it by virtue of the act under which that body is established.

CHAPTER VII

FINAL PROVISIONS

Article 21

Costs

1. The costs incurred in connection with the establishment and operation of the Central Unit shall be borne by the general budget of the European Union.

2. The costs incurred by national units and the costs for their connection to the central database shall be borne by each Member State.

3. The costs of transmission of data from the Member State of origin and of the findings of the comparison to that State shall be borne by the State in question.

Article 22

Implementing rules

1. The Council shall adopt, acting by the majority laid down in Article 205(2) of the Treaty, the implementing provisions necessary for

— laying down the procedure referred to in Article 4(7),
— laying down the procedure for the blocking of the data referred to in Article 12(1),
— drawing up the statistics referred to in Article 12(2).

In cases where these implementing provisions have implications for the operational expenses to be borne by the Member States, the Council shall act unanimously.

2. The measures referred to in Article 3(4) shall be adopted in accordance with the procedure referred to in Article 23(2).

Article 23

Committee

1. The Commission shall be assisted by a committee.

2. In the cases where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The committee shall adopt its rules of procedure.

Article 24

Annual report: Monitoring and evaluation

1. The Commission shall submit to the European Parliament and the Council an annual report on the activities of the Central Unit. The annual report shall include information on the management and performance of Eurodac against predefined quantitative indicators for the objectives referred to in paragraph 2.

2. The Commission shall ensure that systems are in place to monitor the functioning of the Central Unit against objectives, in terms of outputs, cost-effectiveness and quality of service.

3. The Commission shall regularly evaluate the operation of the Central Unit in order to establish whether its objectives have been attained cost-effectively and with a view to providing guidelines for improving the efficiency of future operations.

4. One year after Eurodac starts operations, the Commission shall produce an evaluation report on the Central Unit, focusing on the level of demand compared with expectation and on operational and management issues in the light of experience, with a view to identifying possible short-term improvements to operational practice.

5. Three years after Eurodac starts operations and every six years thereafter, the Commission shall produce an overall evaluation of Eurodac, examining results achieved against objectives and assessing the continuing validity of the underlying rationale and any implications for future operations.

Article 25

Penalties

Member States shall ensure that use of data recorded in the central database contrary to the purpose of Eurodac as laid down in Article 1(1) shall be subject to appropriate penalties.

Article 26

Territorial scope

The provisions of this Regulation shall not be applicable to any territory to which the Dublin Convention does not apply.

Article 27

Entry into force and applicability

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

2. This Regulation shall apply, and Eurodac shall start operations, from the date which the Commission shall publish in the *Official Journal of the European Communities*, when the following conditions are met:

(a) each Member State has notified the Commission that it has made the necessary technical arrangements to transmit data to the Central Unit in accordance with the implementing rules adopted under Article 4(7) and to comply with the implementing rules adopted under Article 12(5); and

(b) the Commission has made the necessary technical arrangements for the Central Unit to begin operations in accordance with the implementing rules adopted under Article 4(7) and Article 12(5).

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 11 December 2000.

For the Council

The President

H. VÉDRINE

COMMISSION REGULATION (EC) No 2726/2000

of 14 December 2000

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 1498/98 [2], and in particular Article 4(1) thereof,

Whereas:

(1) 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.

(2) 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 15 December 2000.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 337, 24.12.1994, p. 66.
[2] OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 14 December 2000 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	052	100,2
	204	67,3
	999	83,8
0707 00 05	052	116,8
	624	195,9
	628	152,5
	999	155,1
0709 90 70	052	91,3
	204	38,5
	628	109,0
	999	79,6
0805 10 10, 0805 10 30, 0805 10 50	052	44,7
	204	46,4
	388	32,2
	999	41,1
0805 20 10	052	93,5
	204	78,4
	999	86,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	71,6
	999	71,6
0805 30 10	052	72,7
	600	72,1
	999	72,4
0808 10 20, 0808 10 50, 0808 10 90	060	38,0
	400	77,0
	404	88,8
	720	112,9
	999	79,2
0808 20 50	052	73,7
	064	59,7
	400	92,7
	720	134,9
	999	90,3

(1) Country nomenclature as fixed by Commission Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 2727/2000
of 14 December 2000
prohibiting fishing for hake by vessels flying the flag of Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy [1], as last amended by Regulation (EC) No 2846/98 [2], and in particular Article 21(3) thereof,

Whereas:

(1) Council Regulation (EC) No 2742/1999 of 17 December 1999 fixing for 2000 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required and amending Regulation (EC) No 66/98 [3], as last amended by Regulation (EC) No 2579/2000 [4], lays down quotas for hake for 2000.

(2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated.

(3) According to the information received by the Commission, catches of hake in the waters of ICES zones Vb (EC waters), VI, VII, XII and XIV by vessels flying the flag of Spain or registered in Spain have exhausted the quota allocated for 2000. Spain has prohibited fishing for this stock from 13 November 2000. The date should be adopted in this Regulation also,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of hake in the waters of ICES zones Vb (EC waters), VI, VII, XII and XIV by vessels flying the flag of Spain or registered in Spain are hereby deemed to have exhausted the quota allocated to Spain for 2000.

Fishing for hake in the waters of ICES zones Vb (EC waters), VI, VII, XII and XIV by vessels flying the flag of Spain or registered in Spain is hereby prohibited, as are the retention on board, transhipment and landing of this stock caught by the above vessels after the date of application of this 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 13 November 2000.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 261, 20.10.1993, p. 1.
[2] OJ L 358, 31.12.1998, p. 5.
[3] OJ L 341, 31.12.1999, p. 1.
[4] OJ L 298, 25.11.2000, p. 3.

COMMISSION REGULATION (EC) No 2728/2000

of 14 December 2000

opening crisis distillation as provided for in Article 30 of Council Regulation (EC) No 1493/1999 in certain wine-growing regions of Germany

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine [1], as amended by Commission Regulation (EC) No 1622/2000 [2], and in particular Articles 30 and 33 thereof,

Whereas:

(1) Article 30 of Regulation (EC) No 1493/1999 provides for the possibility of opening crisis distillation in the event of exceptional market disturbance caused by major surpluses. Such measures may be limited to certain categories of wine and/or certain areas of production and may apply to quality wines psr at the request of the Member State.

(2) By letter of 2 November 2000 the German Government requested that crisis distillation be triggered for white wine of all vine varieties grown in the Mittelrhein, Mosel-Saar-Ruwer, Nahe, Pfalz and Rheinhessen wine-growing regions. The measure is to apply to white quality wines psr of all those regions too.

(3) Wine production in those regions was less than 6 million hl per year in 1995, 1996 and 1997. It amounted to 7,07 million hl in 1998 and 8,02 million hl in 1999. At the same time, white wine's share of total wine consumed in Germany declined from 54 % in 1995 to 47 % in 1999, while there was an increase in consumption of red wine, most of which is imported. White wine exports fell by 13 % between 1993 and 1999.

(4) Prices for white wines in those regions are considerably down on 1998. In Rheinhessen, Pfalz and Nahe, prices for wines of the Müller-Thurgau and Silvaner vine varieties fell from DEM 120-160/hl to around DEM 60/hl while those for wine of the Riesling vine variety in Mosel-Saar-Ruwer dropped from DEM 200-230/hl to DEM 80/hl. Prices for table wine are currently around DEM 40/hl and those for quality wines range from DEM 55/hl to DEM 80/hl depending on the vine variety and the region.

(5) Despite these low prices, consumption of white wine has not risen significantly in 2000. Even the low figures forecast for the 2000 grape harvest have not bumped prices up. White wines stocks in those regions stand currently at 7,5 million hl, while around 6 million hl would suffice to ensure regular supplies to the market.

(6) The producers concerned have delivered wine for distillation in accordance with Article 29 of Regulation (EC) No 1493/1999, but those provisions only concern table wine and the measure accordingly does not fully meet the needs of these regions. A crisis distillation measure is therefore required to solve the serious problems of these wine-growing regions of Germany.

(7) Since the conditions laid down in Article 30(5) of Regulation (EC) No 1493/1999 are satisfied, crisis distillation covering a maximum of 1 million hl should be triggered in these German wine-growing regions for a limited period with a view to maximum effectiveness. No ceiling should be set on the quantity that individual producers can have distilled because wine stocks may vary substantially from one producer to another and they depend on sales to a greater extent than on the individual producer's annual output.

(8) The mechanism to be introduced is provided for in Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms [3], as amended by Regulation (EC) No 2409/2000 [4]. In addition to the articles of that Regulation referring to the distillation measure provided for in Article 30 of Regulation (EC) No 1493/1999, other provisions of Regulation (EC) No 1623/2000 are applicable, and in particular those on the delivery of the alcohol to the intervention agency and on payment of advances.

(9) The buying-in price to be paid by the distiller to the producer should provide a solution to the problems while allowing producers to take advantage of the possibility afforded by this measure. That price should not, however, be such that it adversely affects the application of distillation as provided for in Article 29 of Regulation (EC) No 1493/1999.

(10) The product of crisis distillation must be raw alcohol or neutral alcohol for compulsory delivery to the intervention agency in order to avoid disturbing the market for potable alcohol, which is supplied largely by distillation under Article 29 of Regulation (EC) No 1493/1999.

[1] OJ L 179, 14.7.1999, p. 1.
[2] OJ L 194, 31.7.2000, p. 1.
[3] OJ L 194, 31.7.2000, p. 45.
[4] OJ L 278, 31.10.2000, p. 3.

(11) 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

Crisis distillation as provided for in Article 30 of Regulation (EC) No 1493/1999 is hereby opened for a maximum of 1 million hl of white table wine and white quality wines psr of all vine varieties grown in the Mittelrhein, Mosel-Saar-Ruwer, Nahe, Pfalz and Rheinhessen wine-growing regions of Germany.

Article 2

In addition to the provisions of Regulation (EC) No 1623/2000 referring to Article 30 of Regulation (EC) No 1493/1999, the following provisions of Regulation (EC) No 1623/2000 shall also apply to the measure covered by this Regulation:

— Article 62(5) on payment of the price by the intervention agency as referred to in Article 6(2) of this Regulation,

— Articles 66 and 67 as regards the advance as referred to in Article 6(2) of this Regulation.

Article 3

Producers may conclude contracts as provided for in Article 65 of Regulation (EC) No 1623/2000 from 16 December 2000 to 31 January 2001. Such contracts shall entail the lodging of a security equal to EUR 5 per hl. Such contracts may not be transferred.

Article 4

1. The Member State shall determine the rate of reduction to be applied to the abovementioned contracts where the overall quantity covered by contracts presented exceeds that laid down in Article 1.

2. The Member State shall adopt the administrative provisions needed to approve the abovementioned contracts by 15 February 2001, shall specify the rate of reduction applied and the quantity of wine accepted per contract and shall stipulate that the producer can cancel the contract where the quantity to be distilled is reduced. The Member State shall notify the Commission before 20 February 2001 of the quantities of such wine covered by contracts approved.

3. The wine shall be delivered to the distilleries by 30 June 2001 at the latest. The alcohol obtained may be delivered to the intervention agency by 30 November 2001 at the latest.

4. Securities shall be released in proportion to the quantities delivered where the producer provides proof of delivery to the distillery.

5. The security shall be forfeit where no delivery is made within the time limit laid down.

6. The Member State may limit the number of contracts that individual producers can conclude under the distillation operation in question.

Article 5

The minimum buying-in price for wine delivered for distillation under this Regulation shall be EUR 2,1054 per % vol per hl.

Article 6

1. Distillers shall deliver the product obtained from distillation to the intervention agency. That product shall be of an alcoholic strength of at least 92 % vol.

2. The price to be paid to the distiller by the intervention agency for raw alcohol delivered shall be EUR 2,4726 per % vol per hl. The distiller may receive an advance on that amount equal to EUR 1,3136 per % vol per hl. The advance shall in that case be deducted from the price actually paid.

Article 7

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

It shall apply from 16 December 2000.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 2729/2000
of 14 December 2000
laying down detailed implementing rules on controls in the wine sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ([1]), as amended by Commission Regulation (EC) No 1622/2000 ([2]), and in particular Article 72(4) thereof,

Whereas:

(1) Article 72 of Regulation (EC) No 1493/1999, which replaces Council Regulation (EEC) No 822/87 ([3]), as last amended by Regulation (EC) No 1677/1999 ([4]), with effect from 1 August 2000, contains provisions relating to controls in the wine sector. The framework thus laid down requires implementing rules and the Regulations which dealt with that matter, Commission Regulations (EEC) No 2347/91 of 29 July 1991 on the collection of samples of wine products for the purposes of cooperation between Member States and for analysis by isotopic methods, including analysis for the purposes of the Community databank ([5]), as amended by Regulation (EC) No 1754/97 ([6]), and (EEC) No 2348/91 of 29 July 1991 establishing a databank for the results of analyses of wine products by nuclear magnetic resonance of deuterium ([7]), as last amended by Regulation (EC) No 1932/97 ([8]), should be repealed.

(2) According to the provisions of Commission Regulation (EC) No 1608/2000 of 24 July 2000 laying down transitional measures pending the definitive measures implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine ([9]), as last amended by Regulation (EC) No 2631/2000 ([10]), Council Regulation (EEC) No 2048/89 of 19 June 1989 laying down general rules on controls in the wine sector ([11]) remains applicable until 30 November 2000. As a result, the new implementing rules should enter into force on 1 December 2000.

(3) For the purpose of the uniform application of wine-sector provisions, rules should be adopted with the aim of specifying the control procedures already in force at national and Community level, on the one hand, and ensuring direct collaboration between the bodies responsible for wine-sector controls, on the other.

(4) In addition, specific rules should be laid down for the creation and operation of the body of wine-sector officials, responsible within the Commission for ensuring the uniform application of Community rules.

(5) There should be rules governing the way in which the national bodies and the Commission assist each other in ensuring the correct application of wine-sector rules. Such rules must not hinder the application of specific provisions on Community expenditure, on the declassification of quality wines psr, on criminal matters or on national administrative penalties. Member States must ensure that the application of provisions specific to the latter two matters does not prejudice the purpose of this Regulation or the effectiveness of the controls provided for in it.

(6) Member States must ensure the effectiveness of the work of the bodies responsible for wine-sector controls. To that end, they must designate a body responsible for liaison between them and with the Commission. It is also vital that control operations are coordinated between the competent bodies in all Member States where wine-sector controls have been split up between several competent bodies.

(7) To help the uniform application of the rules throughout the Community, Member States must take the necessary steps to ensure that the staff of the competent bodies have a minimum of powers of investigation to guarantee compliance with the rules.

(8) In addition, the rules governing the creation and operation of the Commission's body of specific officials for wine-sector controls must be drawn up.

(9) If the Commission's specific officials encounter repeated and unjustifiable difficulties during the exercise of their tasks the Commission must be able to request explanations from the Member State concerned and the means required for the successful completion of the inspectors' tasks. The Member State in question must fulfil its obligations under this Regulation by helping the inspectors to accomplish their tasks.

([1]) OJ L 179, 14.7.1999, p. 1.
([2]) OJ L 194, 31.7.2000, p. 1.
([3]) OJ L 84, 27.3.1987, p. 1.
([4]) OJ L 199, 30.7.1999, p. 8.
([5]) OJ L 214, 2.8.1991, p. 32.
([6]) OJ L 248, 11.9.1997, p. 3.
([7]) OJ L 214, 2.8.1991, p. 39.
([8]) OJ L 272, 4.10.1997, p. 10.
([9]) OJ L 185, 25.7.2000, p. 24.
([10]) OJ L 302, 1.12.2000, p. 36.
([11]) OJ L 202, 14.7.1989, p. 32.

(10) Special provisions must be laid down governing the controls to be carried out with regard to wine production potential. In particular, operations benefiting from Community assistance must be subject to systematic on-the-spot verification.

(11) The interdependence of wine-sector markets is reflected in the evolution of trade between Member States, in particular the constant increase in the number of international companies active in the sector, and the possibilities offered by the sector's management rules to have operations, whether aided or not, carried out in or transferred to, a location other than that from which the product originates. Such a situation calls for a greater harmonisation of control methods and closer collaboration between the various bodies responsible for controls.

(12) For the purpose of effective collaboration between the Member States in applying wine-sector rules, Member States' competent bodies must be able on request to liaise with competent bodies in another Member State. The rules governing that liaison and assistance must be drawn up.

(13) In view of the complex nature of certain matters and the urgent need to settle them, it is vital that a competent body requesting assistance can, in agreement with the other competent body, have authorised agents designated by it present when investigations are carried out.

(14) In the event of a serious risk of fraud or of fraud affecting several Member States or a single Member State the various bodies concerned must be able to implement automatically an unsolicited assistance procedure.

(15) In view of the nature of the information exchanged under this Regulation, it must be covered by professional confidentiality.

(16) Regulation (EEC) No 2348/91 establishes an analysis databank at the Joint Research Centre (JRC) for the purpose of contributing to the harmonisation of analytical controls throughout the Community and bringing together analysis samples and reports from Member States. The provisions governing that databank should be taken over and redrafted in the light of the experience gained since its establishment.

(17) The use of reference isotopic analysis methods may ensure more effective control of wine product enrichment or the discovery of the addition of water to such products or, used with the results of the analysis of other isotopic characteristics of such products, it may help to verify conformity with the origin indicated in their name. With a view to making interpretation of the results of such analysis easier, it should be possible to compare those results with results obtained previously using the same methods during the analysis of products with similar characteristics and authenticated origin and production.

(18) Isotopic analysis of wine or wine-derived products is carried out using the reference analysis methods provided for in Commission Regulation (EEC) No 2676/90 of 17 September 1990 determining Community methods for the analysis of wines [1], as last amended by Regulation (EC) No 761/1999 [2].

(19) In order to facilitate interpretation of the results obtained from such analyses carried out in Community laboratories equipped for the purpose and to guarantee that the results obtained in such laboratories are comparable, uniform rules should be drawn up for taking grape samples and for the vinification and storage of such samples.

(20) To guarantee the quality and comparability of analytical data a system of recognised quality standards must be applied to the laboratories designated by Member States to carry out the isotopic analysis of samples for the databank.

(21) Isotopic analysis of wine-sector products and interpretation of the results are delicate procedures and in order to permit uniform interpretation of such analysis results the JRC databank should be made accessible to official laboratories using that analysis method and, on request, to other official bodies in the Member States while respecting the principles of the protection of private data.

(22) Regulation (EEC) No 2347/91 contains rules on the taking of samples for dispatch to an official laboratory in another Member State and common rules for the taking of samples which are to be analysed by isotopic methods. Those rules should be taken over and the taking of samples for the Community databank should be deemed to be an instance of the taking of samples of a wine-sector product as part of the system of direct liaison between bodies.

(23) To guarantee the objective nature of the controls, the Commission's specific officials or the officials of a Member State's competent body must be able to ask the competent body in another Member State to carry out sampling. The requesting official must have access to the samples taken and be able to specify the laboratory where they are to be analysed.

[1] OJ L 272, 3.10.1990, p. 1.
[2] OJ L 99, 14.4.1999, p. 4.

(24) Detailed rules should be drawn up for the official taking of samples as part of the collaboration between Member States' competent bodies and for the use of such samples. Such rules must guarantee representativeness and the possibility of verifying the results of official analyses throughout the Community.

(25) To simplify the administration of expenditure relating to the taking and dispatch of samples, analysis and organoleptic testing and employing the services of an expert, the principle should be established that such expenditure is to be borne by the body ordering the sampling or the services of the expert.

(26) The conclusive force of the findings from controls carried out pursuant to this Regulation must be specified.

(27) Without prejudice to specific provisions in Community legislation, Member States must determine the penalties applicable to the breach of wine-sector rules. The penalties to be applied must be effective, proportional and deterrent and must not make the application of Community law more difficult when compared to penalties provided for under national law.

(28) To guarantee the smooth operation of controls and grape sampling in vineyards provisions should be adopted to prevent interested parties from obstructing controls concerning them and to make them facilitate sampling and furnish the information required pursuant to this Regulation.

(29) 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

Checks and penalties

1. This Regulation lays down specific arrangements for checks and penalties in the wine sector.

2. This Regulation shall not affect the application of:

— specific provisions governing relations between Member States in combating fraud in the wine sector in so far as they are such as to facilitate the application of this Regulation,

— rules relating to:

  — criminal proceedings or mutual assistance among Member States at judicial level in criminal matters,

  — the administrative penalties procedure.

TITLE I

CHECKS BY THE MEMBER STATES

Article 2

Principles

1. The Member States shall take the measures required to check compliance with Community rules governing the wine sector and the national rules for applying them.

2. The Member States shall carry out administrative and on-the-spot checks so as to ensure efficient verification of compliance with the required conditions.

3. In line with the nature of the support measure concerned, Member States shall define methods and means for verification and specify who shall be subject to checks.

4. Controls shall be carried out either systematically or by sampling. In the case of sampling, Member States shall ensure that by their number, nature and frequency controls are representative of the whole of their territory and correspond to the volume of wine-sector products marketed or held with a view to their marketing.

Article 3

Control bodies

1. Where a Member State designates several competent bodies to check compliance with the rules governing the wine sector, it shall coordinate the work of those bodies.

2. Each Member State shall designate a single liaison body responsible for contacts with the liaison bodies of other Member States and with the Commission. In particular, the liaison body shall receive and forward requests for cooperation with a view to implementing this Title, and shall represent its Member State vis-à-vis other Member States or the Commission.

3. The Commission shall see that information notified to it by the Member States pursuant to Article 72(2) of Regulation (EC) No 1493/1999 is distributed regularly in appropriate form.

Article 4

Powers of control officials

Each Member State shall take all appropriate measures to facilitate the work of the officials of its competent bodies. It shall ensure in particular that such officials, where appropriate in conjunction with officials of other departments which it authorises for the purpose:

— have access to vineyards, wine-making and storage installations, installations for processing wine-sector products and vehicles for transporting those products,

— have access to the commercial premises (or warehouses) and vehicles of anyone holding with a view to sale, marketing or transporting wine-sector products or products which may be intended for use in the wine sector,

— may undertake an inventory of wine-sector products and substances or products which may be used for the preparation of such products,

— may take samples of wine-sector products, substances or products which may be used for the preparation of such products and products held with a view to sale, marketing or transport,

— may study accounting data and other documents of use in control procedures, and make copies or extracts thereof,

— may take appropriate protective measures regarding the preparation, holding, transport, description, presentation and marketing of a wine-sector product or a product intended for use in the preparation of such a product, if there is reason to believe that there has been a serious infringement of Community provisions, in particular in the case of fraudulent treatment or risks to health.

Article 5

Production potential

1. For the purpose of compliance with the provisions on production potential laid down in Title II of Regulation (EC) No 1493/1999 Member States shall make use of the vineyard register or reference charts, as applicable, in accordance with Council Regulation (EEC) No 2392/86 [1].

Permanent abandonment and restructuring and conversion receiving a contribution from the Community shall be systematically verified on the spot. The plots checked shall be those which are the subject of an application for aid.

2. Compliance with the prohibition on new planting laid down in Article 2(1) of Regulation (EC) No 1493/1999 shall be verified by means of the reference chart drawn up in accordance with Article 4(4) of Regulation (EEC) No 2392/86.

The Member States where no reference chart is available shall notify the Commission before 1 January 2001 of the measures introduced to ensure compliance with the prohibition on new planting.

TITLE II

COMMUNITY CONTROL STRUCTURE

Article 6

The Commission's body of specific officials

1. The Commission's body of specific officials set up under Article 72(3) of Regulation (EC) No 1493/1999 may help with checks organised by the competent bodies in the Member States.

Checks shall be carried out in accordance with Article 9(2) of Council Regulation (EC) No 1258/1999 [2].

The Commission may request the Member States:

— to provide information on their planned checks,

— to carry out checks with the aid of its specific officials.

The officials of the Member States shall at all times be in charge of carrying out the control operations referred to in the first and second subparagraphs.

2. In carrying out their duties, the Commission's specific officials shall have the rights and powers set out in the first, second, third and fifth indents of Article 4 without prejudice to the limits imposed by the Member States on their own officials in carrying out the controls concerned.

The Commission's specific officials shall, in the course of checks, adopt an attitude compatible with the rules and professional practices which officials of the relevant Member State must follow. They shall observe professional confidentiality.

3. After the execution of each control operation, the Commission shall forward a communication on the work of its specific officials to the liaison body of the Member State concerned; that communication shall record any difficulties encountered and infringements of the provisions in force that were found.

TITLE III

ASSISTANCE BETWEEN CONTROL BODIES

Article 7

Assistance on request

1. Where a competent body of a Member State undertakes control activities on its territory, it may appeal for information from the Commission or a competent body of any other Member State liable to be affected directly or indirectly.

The Commission shall be notified whenever the product which is the subject of the controls referred to in the first subparagraph originates in a third country, and if the marketing of this product may be of specific interest to other Member States.

The body appealed to shall provide all such information as may enable the applicant body to carry out its duties.

[1] OJ L 208, 31.7.1986, p. 1.

[2] OJ L 160, 26.6.1999, p. 103.

2. Where reasoned application is made by the applicant body, the body appealed to shall perform special supervision or checks with a view to achieving the aims pursued, or shall take the necessary steps to ensure that such supervision or checks are performed.

3. The body appealed to shall act as though on its own behalf.

4. In agreement with the body appealed to, the applicant body may designate officials:

— either to obtain, on the premises of the administrative authorities coming under the Member State in which the body appealed to is established, information relating to the application of the rules in the wine sector or to control activities, including the making of copies of transport and other documents or extracts from registers,

— or to be present during operations requested under paragraph 2, after advising the body appealed to in good time before the start of those operations.

The copies referred to in the first indent may be made only with the agreement of the body appealed to.

The officials of the body appealed to shall remain in charge of the control operations at all times.

The officials of the applicant body shall:

— produce a written order indicating their identity and official position,

— be accorded, without prejudice to the limits imposed by the Member State of the body appealed to on its own officials in carrying out the controls in question:

  — the rights of access provided for in the first and second indents of Article 4,

  — the right to be informed of the results of controls carried out by the officials of the body appealed to under the third and fifth indents of Article 4,

— in the course of checks, conduct themselves in a way compatible with the rules and professional practices which officials of the Member State are expected to follow, and observe professional confidentiality.

5. The requests referred to in this Article shall be forwarded to the body appealed to in the Member State in question via the liaison body of that Member State. The same procedure shall apply to:

— replies to such requests,

— communications concerning the application of paragraphs 2 and 4.

Notwithstanding the first subparagraph and in the interests of quicker and more effective cooperation between them, Member States may permit a competent body to:

— make its request or communication directly to a competent body of another Member State,

— reply directly to requests or communications received from a competent body of another Member State.

Article 8

Unsolicited assistance

Where a competent body of a Member State has grounds for suspicion or becomes aware that:

— a product listed in Article 1(2) of Regulation (EC) No 1493/1999 does not comply with the wine-sector rules or has been the subject of fraudulent action to obtain or market such a product, and

— this failure to comply with the rules is of specific interest to one or more other Member States and such as to lead to administrative measures or legal action,

that competent body shall, via the liaison body under which it comes, notify the liaison body of the Member State concerned and the Commission without delay.

Article 9

Common provisions

1. The information referred to in Article 7(1) and Article 8 shall be accompanied and supplemented as soon as possible by relevant documents and other evidence and a reference to any administrative measures or legal proceedings, and shall specifically cover:

— the composition and organoleptic characteristics of the product in question,

— the description and presentation of the product,

— compliance or not with the rules laid down for producing and marketing the product.

2. The liaison bodies involved in a case for which the assistance procedure is initiated shall inform each other without delay of:

— the progress of investigations,

— any administrative or legal action taken subsequent to the operations concerned.

3. Travel costs incurred when implementing Article 7(2) and (4) shall be borne by:

— the Member State which has appointed an official for the measures referred to in the preceding paragraphs, or

— the Community budget at the request of the liaison body of that Member State if the Commission has formally recognised in advance the Community interest of the control activity in question.

TITLE IV

ANALYTICAL DATABANK

Article 10

Purpose of the databank

1. An analytical databank for wine products shall be managed by the Joint Research Centre (JRC).

2. The databank shall contain data obtained from isotopic analysis of the components of ethanol and water in wine products according to the reference methods of analysis provided for in Regulation (EEC) No 2676/90.

3. The databank is to help harmonise the interpretation of the results obtained by the official laboratories of the Member States in applying the reference methods of analysis provided for in Regulation (EEC) No 2676/90.

Article 11

Samples

1. For the establishment of the analytical databank, samples of fresh grapes for analysis shall be taken, treated and processed into wine in accordance with the instructions in Annex I.

2. The samples of fresh grapes shall be taken from vineyards situated in a wine-growing area of clearly defined soil type, situation, vine training system, variety, age and cultural practices.

The number of samples to be taken each year for the databank shall be at least:

— 400 samples in France,

— 400 samples in Italy,

— 200 samples in Germany,

— 200 samples in Spain,

— 50 samples in Portugal,

— 50 samples in Greece,

— 50 samples in Austria,

— 4 samples in Luxembourg,

— 4 samples in the United Kingdom.

The selection of samples must take account of the geographical situation of vineyards in the above Member States.

Each year at least 25 % of the samples shall be taken from the same plots as in the previous year.

3. The samples shall be analysed by the methods described in the Annex to Regulation (EEC) No 2676/90 by laboratories designated by the Member States. The designated laboratories must meet the general criteria for the operation of testing laboratories set out in European Standard EN 45001 or ISO/IEC 17025, and in particular must take part in a system of proficiency tests covering methods of isotopic analysis.

4. An analysis report shall be drawn up in accordance with Annex III. A description sheet shall be drawn up for each sample in accordance with Annex II.

5. A copy of the report with the results and interpretation of the analyses along with a copy of the description sheet shall be sent to the JRC.

6. Member States and the JRC shall ensure that:

— data in the analytical databank are preserved,

— at least one control sample for each of the samples sent to the JRC for analysis is kept for at least three years from the date the sample is taken,

— the databank is used only for monitoring the application of Community and national wine legislation or for statistical or scientific purposes,

— measures are applied to safeguard the data, in particular against theft and interference,

— files are made available, without undue delay or cost, to those to whom they relate so that any inaccuracies can be rectified.

Article 12

Isotopic analyses

1. Wine-producing Member States not equipped to carry out isotopic analysis shall send their wine samples to the JRC for analysis. In this case, they may designate a competent body authorised to have access to the information on samples taken on their territory.

2. Member States carrying out their own isotopic analysis of wine products shall send at least 10 % of the samples for control analysis by the JRC or by any other laboratory designated by the JRC.

Article 13

Communication of results

1. The information contained in the databank shall be made available on request to the laboratories designated by the Member States for that purpose.

2. In duly substantiated cases, the information referred to in paragraph 1, when representative, may be made available on request to other official bodies in the Member States.

3. Communication of information shall relate only to the relevant analytical data required to interpret an analysis carried out on a sample of comparable characteristics and origin. Any communication of information shall be accompanied by a reminder of the minimum requirements for the use of the databank.

Article 14

Compliance with procedures

Member States shall ensure that the results of isotopic analyses contained in their own databanks are obtained by analysing samples taken and treated in accordance with this Title.

TITLE V

COLLECTION OF SAMPLES FOR CONTROL PURPOSES

Article 15

Request for collection of samples

1. In the context of the application of Titles II and III, the specific officials of the Commission or the officials of a competent body of a Member State may request a competent body of another Member State to collect samples in accordance with the relevant provisions of that Member State.

2. The applicant body shall hold the samples collected and shall determine *inter alia* the laboratory where they are to be analysed.

3. Samples shall be taken and treated in accordance with the instructions in Annex IV.

Article 16

Costs of collection, dispatch and analysis of samples

1. The costs incurred in taking, treating and dispatching a sample and in carrying out analytical and organoleptic tests shall be borne by the competent body of the Member State which asked for the sample to be taken. Such costs shall be calculated according to the rates applicable in the Member State in the territory of which the operations are carried out.

2. The costs incurred in sending the samples referred to in Article 12 to the JRC or to another laboratory designated by the JRC for analysis by isotopic methods shall be borne by the Community.

For Member States which do not have a laboratory equipped for wine analysis by isotopic methods, the costs incurred in sending all the samples to be taken under Article 14(1) to the JRC shall be borne by the Community.

TITLE VI

GENERAL AND FINAL PROVISIONS

Article 17

Conclusive force

The findings of the specific officials of the Commission or the officials of a competent body of a Member State in the course of application of this Title may be invoked by the competent bodies of the other Member States or by the Commission. In such cases, they shall have no less value because of the fact that they do not come from the Member State in question.

Article 18

Penalties

Without prejudice to the special arrangements provided for in Regulation (EC) No 1493/1999 or in the regulations adopted pursuant to that Regulation, the Member States shall determine the penalties applicable to breaches of the provisions governing the wine sector and shall take all necessary measures to ensure their application. Such penalties shall be effective, be commensurate with their purpose and have adequate deterrent effect.

Article 19

Persons subject to controls

1. Natural or legal persons and groups of such persons whose professional activities may be the subject of the controls referred to in this Regulation shall not obstruct such controls and shall be required to facilitate them at all times.

2. Cultivators of vines from which grapes are taken by officials of a competent body:

— may not impede such collection in any way, and

— must provide these officials with all the information required under this Regulation.

Article 20

Repeal

Regulations (EEC) No 2347/91 and (EEC) No 2348/91 are hereby repealed.

Article 21

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 December 2000.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

Instructions for taking samples of fresh grapes and processing them into wine for analysis by the isotopic methods referred to in Article 11

I. SAMPLING OF GRAPES

A. Each sample must consist of at least 10 kg of ripe, sound grapes of the same variety. Samples should not be collected in the presence of dew or after rain. The grapes must be free of external moisture. They are to be taken in the condition in which they are found.

Sampling must be carried out during the period when the plot in question is harvested. The grapes collected must be representative of the whole plot. The fresh grape samples, where appropriate in the form of grape must, may be preserved by freezing until vinification.

Member States may require that the mininum quantities of samples to be collected in their territory exceed 10 kg where this is justified by the requirements of scientific collaboration between several laboratories.

B. When the samples are taken, a description sheet is to be drawn up. This sheet must include a first part concerning the sampling of the grapes and a second part concerning vinification. It must be kept with the sample and must accompany it during all transportation. It must be kept up to date by means of an entry regarding each type of treatment undergone by the sample.

The description sheet concerning the sampling is to be drawn up in accordance with Part I of the questionnaire in Annex II.

II. VINIFICATION

A. Vinification must be carried out by the competent body or by a department authorised to do so by that body, wherever possible under conditions comparable with the normal conditions in the production area of which the sample is representative. Vinification must result in the total transformation of the sugar into alcohol, i.e. in less than 2 g/l of residual sugar. As soon as the wine has clarified and stabilised by means of SO_2, it must be put in 75 cl bottles and labelled.

B. The description sheet for vinification is to be drawn up in accordance with Part II of the questionnaire in Annex II.

ANNEX II

Questionnaire on the collection and vinification of samples of grapes intended for analysis by isotopic methods

PART I

1. *General information*

1.1. Sample number:

1.2. Name and function of the official or authorised person who took the sample:

1.3. Name and address of the competent body responsible for taking the sample:

1.4. Name and address of the competent body responsible for vinification and dispatch of the sample, if other than the body referred to at 1.3:

2. *General description of the sample*

2.1. Origin (country, region):

2.2. Year of harvest:

2.3. Vine variety:

2.4. Colour of the grapes:

3. *Description of the vineyard*

3.1. Name and address of person farming the plot:

3.2. Location of the plot:

— wine village:

— locality:

— cadastral reference:

— latitude and longitude:

3.3. Soil type (e.g. limey, clayey, lime-clay, sandy):

3.4. Situation (e.g. slope, plain, exposed to sun):

3.5. Number of vines per hectare:

3.6. Approximate age of vineyard (less than 10 years, between 10 and 25 years, more than 25 years):

3.7. Altitude:

3.8. Method of training and pruning:

3.9. Type of wine into which the grapes are normally made (table wine, quality wine psr, other):

4. *Crop and must characteristics*

4.1. Estimated yield per hectare for the plot harvested:

4.2. State of health of the grapes (e.g. sound, rotten), specifying whether the grapes were dry or wet when the sample was taken:

4.3. Date on which sample was taken:

5. *Weather conditions preceding harvest*

5.1. Precipitation in the 10 days preceding harvest: yes/no.

If yes, additional information where available.

6. Irrigated vineyards. If the crop is irrigated:

6.1. Date of last watering:

(Stamp of the competent body responsible for taking the sample, and name, position and signature of official taking the sample)

PART II

1. *Microvinification*

1.1. Weight of the sample of grapes, in kg:

1.2. Method of pressing:

1.3. Volume of must obtained:

1.4. Characteristics of the must:

— measured index of refraction:

— total acidity expressed in g/l of tartaric acid:

1.5. Method of treating the must (e. g. settling, centrifugation):

1.6. Yeasting (variety of yeast used). Indicate whether or not there was spontaneous fermentation:

1.7. Temperature during fermentation (approximate):

1.8. Method for determining end of fermentation:

1.9. Method of treating the wine (e. g. racking):

1.10. Addition of sulphur dioxide in mg/l:

1.11. Analysis of the wine obtained:

— total and actual alcoholic strength in % vol:

— total dry extract:

— reducing sugars expressed as g/l of invert sugar:

2. *Chronological table of vinification of the sample*

Date:

— on which sample was taken:

— of pressing:

— of commencement of fermentation:

— of end of fermentation:

— of separation of wine from lees:

— of the various additions of SO_2:

— of bottling:

— of dispatch to a specialised laboratory for isotopic analysis:

— where applicable, of dispatch to the JRC:

Date on which Part II was completed:

(Stamp of the competent body which carried out vinification and signature of competent official of that body)

ANNEX III

ANALYSIS REPORT

Wine and wine product samples analysed by an isotopic method described in the Annex to Regulation (EEC) No 2676/90, to be entered in the JRC isotope databank

I. GENERAL INFORMATION

1. Country:

2. Sample number:

3. Year:

4. Vine variety

5. Class of wine:

6. Region/district:

7. Name and address of laboratory responsible for the results:

8. Sample for control analysis by the JRC: yes/no

II. METHODS AND RESULTS

1. *Wine*

1.1. Alcoholic strength by volume: % vol

1.2. Total dry extract: g/l

1.3. Reducing sugars: g/l

1.4. Total acidity expressed as tartaric acid: g/l

1.5. Total sulphur dioxide: mg/l

2. *Distillation of wine for SNIF-NMR*

2.1. Description of distillation apparatus:

2.2. Volume of wine distilled/weight of distillate obtained:

3. *Analysis of distillate*

3.1. Water content: % (m/m)
(Method: Karl Fischer/Densitometry)

3.2. Volatile substances other than ethyl alcohol : % (m/m)
(Method: Gas chromatography with a suitable capillary column)

3.3. Ethyl alcohol in wine distillate:
$t_m D = 1 - [\text{water content \% (m/m)}]/100$

4. *Analysis of N,N-tetramethylurea*

4.1. Water content: % (m/m)

4.2. Purity of TMU: % (m/m)
(Method: Gas chromatography with a suitable capillary column)

5. *Result of deuterium isotope correlations of ethanol measured by NMR:*

5.1. $(D/H)_I$ = ppm standard deviation:

5.2. $(D/H)_{II}$ = ppm standard deviation:

5.3. $(D/H)_{QW}$ = ppm standard deviation:

5.4. $(D/H)_{TMU}$ = ppm standard deviation:

5.5. 'R' = standard deviation:

6. *NMR parameters:*

Observed frequency:

Memory:

Number of scans:

Number of tests:

Acquisition time:

90° pulse: ; 01: ; 02:

Decoupling power:

Temperature: °C

Exponential multiplication: Hz

Correction of the base line: yes/no

Zero filling: yes/no.

7. *Result of isotopic correlation $^{18}O/^{16}O$ of wine*

$\delta\ ^{18}O$ [‰] = ‰ V. SMOW-SLAP

Number of determinations:

Standard deviation:

8. *Equilibration parameters*

Automatic equilibration: yes/no

Equilibration temperature: °C

Sample volume: ml

Volume of equilibration flask: ml

Duration of equilibration: hours

ANNEX IV

Collection of samples in the context of assistance between control bodies

1. When samples of wine, grape must or another liquid wine product are taken in the context of assistance between control bodies, the competent body shall ensure that:
   — in the case of products in containers of not more than 60 litres warehoused in one lot, the samples are representative of the entire lot,
   — in the case of products in containers with a nominal capacity of more than 60 litres, the samples are representative of the contents of the container from which the samples are taken.

2. Samples shall be taken by pouring the product in question into at least five clean containers each having a nominal capacity of not less than 75 cl. In the case of products as referred to in the first indent of paragraph 1, sampling may also take the form of removing at least five containers having a nominal capacity of not less than 75 cl from the lot to be examined.

   Where samples of wine distillate are to be analysed by nuclear magnetic resonance of deuterium, the samples shall be placed in containers having a nominal capacity of 25 cl, or even 5 cl where they are to be sent from one official laboratory to another.

   The samples shall be taken, closed where appropriate, and sealed in the presence of a representative of the establishment where the sample is taken or of a representative of the carrier if the sample is taken during transport. If no representative is present, the report referred to in paragraph 4 shall mention this fact.

   Each sample shall be fitted with an inert and non-reusable closure.

3. Each sample shall bear a label which complies with part A of Annex V.

   Where the container is too small for the prescribed label to be attached thereto, the container shall be marked with an indelible number and the required information shall be indicated on a separate sheet.

   The representative of the establishment where the sample is taken or the representative of the carrier shall be requested to sign the label or, as applicable, the sheet.

4. The official of the competent body authorised to take samples shall draw up a written report in which he shall note any observations he considers important for assessing the samples. In the report he shall note, where necessary, any statements by the carrier's representative or the representative of the establisment where the sample was taken, and shall request such representative to affix his signature. He shall note the amount of the product from which the sample was taken. If the signatures referred to above and in the third subparagraph of paragraph 3 have been refused, the report shall mention this fact.

5. Wherever samples are taken, one of the samples shall remain as a control sample in the establishment where the sample was taken, and another with the competent body whose official took the sample. Three of the samples shall be sent to an official laboratory, which will carry out the analytical or organoleptic examination. There one of the samples shall be analysed. Another shall be kept as a control sample. Control samples shall be kept for a minimum period of three years after sampling.

6. Consignments of samples shall bear on the external packaging a red label complying with the model in part B of Annex V. The label shall be 50 mm × 25 mm.

   When dispatching samples, the competent body of the Member State from which the samples are sent shall affix its stamp partially on the outer packaging of the parcel and partially on the red label.

ANNEX V

A. Label describing the sample, in accordance with paragraph 3 of Annex IV

1. Required information:
   (a) name and address, including Member State, of the competent body on whose instructions sampling was carried out;
   (b) serial number of the sample;
   (c) date on which sample was taken;
   (d) name of the official of the competent body authorised to take the sample;
   (e) name and address of the undertaking in which the sample was taken;
   (f) identity of the container from which the sample was taken (e.g. number of the container, number of the lot of bottles, etc.);
   (g) description of the product, including production area, year of harvest, actual or potential alcoholic strength and, if possible, vine variety;
   (h) the words: 'The reserved control sample may be examined only by a laboratory authorised to carry out control analyses. Breaking the seal is a punishable offence.'
2. Remarks:
3. Minimum size: 100 mm × 100 mm.

B. Model of the red label referred to in paragraph 6 of Annex IV:

EUROPEAN COMMUNITIES
Products for analytical and organoleptic testing under Regulation (EC) No 2729/2000

COMMISSION DECISION No 2730/2000/ECSC

of 14 December 2000

imposing a definitive anti-dumping duty on imports of coke of coal in pieces with a diameter of more than 80 mm originating in the People's Republic of China and definitively collecting the provisional duty imposed

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Commission Decision No 2277/96/ECSC of 28 November 1996 on protection against dumped imports from countries not members of the European Coal and Steel Community [1], as amended by Commission Decision No 1000/1999/ECSC [2], and in particular Article 9 thereof,

Whereas:

A. PROCEDURE

(1) By Commission Decision No 1238/2000/ECSC [3] '(the provisional Decision'), the Commission imposed a provisional anti-dumping duty on imports of coke of coal in pieces with a diameter of more than 80 mm falling within CN code ex 2704 00 19 and originating in the People's Republic of China ('the PRC').

B. SUBSEQUENT PROCEDURE

(2) Subsequent to the disclosure of the essential facts and considerations on the basis of which provisional measures were imposed, several interested parties made written submissions making their views known on the provisional finding. In accordance with Article 6(5) of Decision No 2277/96/ECSC ('the basic Decision'), parties that so requested were granted an opportunity to be heard.

(3) The Commission continued to seek and verify all information deemed to be necessary for the definitive findings. All interested parties cooperating in the investigation were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty and the definitive collection of the amounts secured by way of the provisional duty. They were also granted a period within which to make representations subsequent to the disclosure.

(4) The oral and written comments submitted by the interested parties were considered, and, where deemed appropriate, the provisional findings have been modified accordingly.

(5) Having reviewed the provisional findings on the basis of the information gathered since the provisional Decision was adopted, it is concluded that the main findings as set out in that Decision should be confirmed, to the extent that they are not amended by the considerations outlined in the present Decision.

C. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(6) The product concerned was defined in the provisional Decision as coke of coal in pieces with a diameter of more than 80 mm falling within CN code ex 2704 00 19 and originating in the PRC. This product, commonly known as foundry coke, is produced in different grades with, in particular, different fixed carbon content, and in various lump sizes. All grades were found to have the same basic physical, technical and chemical characteristics and the same use as a combustion agent for use in cupola ovens for the production of cast iron, stone wool, zinc and lead [4].

(7) Foundry coke was distinguished from other cokes falling under the same CN code by virtue of the size, namely coke of coal in pieces with a diameter of more than 80 mm was considered to be the only size suitable for use in cupola ovens due to its combustion heat and strength to support burden without breakdown. Coke with a diameter of less than 80 mm, commonly known as blast furnace coke, was found to be unsuitable for those uses. Blast furnace coke is used in blast furnaces for the production of steel and for other purposes such as the production of chemicals and sugar.

(8) Subsequent to the imposition of provisional measures certain interested parties argued that, although 80 mm was a clear dividing line, there were instances where blast furnace coke was imported in sizes over 80 mm, up to a maximum of 100 mm. In this respect, information was presented showing that certain customs authorities were applying the provisional anti-dumping duty on both foundry coke and blast furnace coke in pieces with a diameter of more than 80 mm.

[1] OJ L 308, 29.11.1996, p. 11.
[2] OJ L 122, 12.5.1999, p. 35.
[3] OJ L 141, 15.6.2000, p. 9.

[4] The Commission found that the term 'zinc lead' used in the provisional Decision was a clerical error and should be corrected as 'zinc and lead'.

(9) It should be noted that the product investigated was foundry coke and not blast furnace coke. Furthermore, since blast furnace coke in pieces with a diameter of more than 80 mm has generally a lower strength it is not destined for use in cupola ovens for the manufacture of cast iron, stone wool or melting zinc and lead. It should also be noted that according to the information provided by interested parties in the course of the investigtion, in those instances where coke in pieces with a diameter of more than 80 mm up to a maximum of 100 mm is imported together with coke in pieces of 80 mm or less in diameter, this coke was destined for use in blast furnaces and could not generally be used in cupola ovens.

(10) For these reasons, the product concerned should be clarified and defined taking into consideration, on the one hand, its physical characteristics, that is to say coke of coal in pieces larger than 80 mm in maximum diameter and, on the other hand, its use, that is to say of a kind used in cupola ovens for the manufacture of cast iron and stone wool as well as melting zinc and lead. It should therefore be clarified that blast furnace coke, although in pieces with a diameter of more than 80 mm up to 100 mm, which are imported together with coke in pieces of 80 mm or less in diameter are not covered by this proceeding.

(11) The Chinese exporters/producers and one Community importer argued that the product concerned imported from the PRC during the investigation period ('IP') (1 July 1998 to 30 June 1999) was semi-finished foundry coke which could only be considered finished foundry coke after screening. The Community importer claimed that screening is not just to separate the fractions in commercial sizes (over 80 mm) from smaller particles (80 mm or below) as stated in recital 13 of the provisional Decision, but is also a phase of mechanical stabilisation aimed at breaking up cracked parcels of foundry coke. Being the last substantial step in the production chain adding significant value, it was claimed that screening in the Community was enough to change the origin of foundry coke imported from the PRC. It was alleged that this was also supported by the significant adjustment for screening costs granted by the Commission in the calculation of price undercutting.

(12) This claim was not considered to be justified. Mechanical screening is a treatment in which coke fractions are separated into sizes or size ranges without however altering the basic chemical or physical characteristics, which are inherited from the coking coals used as raw materials and the production method. Foundry coke has to be screened before industrial end-use in order to obtain the desired size or size range for the cupola oven. Normally screening is made immediately after carbonisation but, as foundry coke suffers some natural deterioration during loading, transportation and unloading, it is often screened again after sea transportation. In this respect, it cannot be considered that by screening, the resulting foundry coke receives its own properties and a composition of its own which it did not possess before this operation. Therefore it cannot be concluded that unscreened foundry coke at Community border is a semi-finished product.

(13) Furthermore, it was found that screening represented on average less than 4 % of the cif import price and that the adjustment granted in the calculation of price undercutting included not only the cost of screening, but all selling and financing costs incurred between importation and resale. It cannot therefore be concluded that the total amount of the adjustment granted in the calculation of price undercutting is an indication of the value added to the product after importation for the purpose of determining the origin of the good. In view of the above, it cannot be argued that screening in the Community confers Community origin on the product concerned.

(14) It is therefore concluded that the product concerned is foundry coke originating in the PRC, that is to say coke of coal in pieces with a diameter of more than 80 mm of a kind used in cupola ovens for the manufacture of cast iron, stone wool, zinc and lead. It is also concluded that all grades of foundry coke are one product since they all share the same basic physical and chemical characteristics and have the same use.

2. **Like product**

(15) One user claimed that Community foundry coke was not alike to the product concerned, since the latter was of a lower quality. In support of this claim it argued that switching between the two could not take place without substantial and expensive modifications in technical equipment leading to substantial costs. Some users also alleged that the product concerned was of a lower quality and could only be used by mixing it with the Community produced one, thereby showing that they are not like products.

(16) It should firstly be recalled that differences in quality have no effect on the definition of the like product, as long as the basic physical and chemical characteristics remain the same and the two products are interchangeable. This matter has been explicitly dealt with in recitals 19 to 21 of the provisional Decision. The issue of quality has also been the source of seemingly contradictory statements, mainly by foundries. Some of them claimed that they could not use Chinese foundry coke because of the lower quality, while others claimed that the Chinese foundry coke was superior to that produced in the Community. Furthermore, this contradiction

simply shows that, although there are certain generally accepted limits of chemical and physical characteristics for foundry coke, end-users are either able to select the most suitable foundry coke for their purposes or to adjust their equipment to suit a particular foundry coke. This is confirmed by the fact that end-users have changed from the Community produced to Chinese foundry coke and, in some cases, back to Community-produced coke. There is therefore a clear interchangeability of these products and the argument concerning the need for substantial and expensive modifications to the technical equipment is not convincing and should be rejected. That the two products compete with each other is also proven by the fact that users decide which one to purchase according to its price. The fact that specific users might not be able to switch products does not invalidate this conclusion.

(17) In view of the above, the conclusions in recitals 18 to 23 of the provisional Decision are hereby confirmed.

D. **DUMPING**

1. **Market economy status**

(18) The company, which requested market economy status ('MES'), objected to the Commission's conclusion that its accounts did not comply with the requirements of Article 2(7)(c), second indent, of the basic Decision. The company claimed that the Commission failed to investigate whether the company's accounts were sufficiently reliable to be used as a basis to establish an individual dumping margin.

(19) As outlined in recital 26 of the provisional Decision, the investigation clearly revealed that the company's accounts did not adequately reflect the financial situation of the company during the IP, namely in terms of sales records. The Commission established that the accounts were not kept on a regular and consistent basis, which meant that they were generally unreliable and did not comply with international accounting standards. As this is a criterion for establishing whether or not the exporter concerned operates under market economy conditions, the Commission had to reject the claim for market economy status in accordance with the basic Decision. The company did not submit any further evidence, which could show that its accounts were nonetheless in conformity with international accounting standards. Therefore, and in the absence of any information showing that the Commission's preliminary conclusion was wrong, the provisional findings are confirmed.

2. **Individual treatment**

(20) The same company argued that the Commission erred in concluding that it did not enjoy legal and factual independence from the State and that the Commission did not demonstrate the existence of a risk of circumvention of anti-dumping measures should individual treatment be granted to it. In this regard, it further argued that the company negotiated all sales contracts directly with its customers in the Community and that it had full control over these transactions. It finally argued that the absence of a questionnaire reply by its mother company in Hong Kong should not have been considered as a deficiency.

(21) The Commission established that the company's export sales were, at least partly, controlled by the Chinese authorities due to the fact that the company could not export the product concerned in its own name, but had to rely on state-owned traders possessing a licence to export. In addition, the investigation revealed that the company was not entirely free to determine export prices, due to the fact that it was required to pay an agency fee to the state owned traders. The fact that the sales contracts were negotiated directly with the customers in the Community could not be considered by itself as sufficient in order to demonstrate the necessary independence from state authorities. Due to the fact that the state had at least partial control over the company's export sales, the risk of circumvention of the country-wide duty was clearly present and individual treatment could not be granted to the company.

(22) The investigation revealed that the mother company in Hong Kong was clearly involved in the marketing of the product concerned and in the facilitation of the export transactions. It should however be noted that the fact of whether or not the mother company submitted a separate reply to the Commission's questionnaire could not alter the conclusions in recitals 20 and 21, namely that the exporter in the PRC could not show that it was sufficiently independent from the State so be entitled to individual treatment. The provisional findings in recitals 32 and 34 of the provisional Decision are therefore confirmed.

3. **Export price**

(23) The Chinese exporters objected to the Commission's methodology for calculating ocean freight and insurance costs ('cif costs') as regards their export sales and argued that for all export sales the same amount of cif costs should have been used, that is to say either the cif costs as reported by the exporting producers or the cif cost as calculated by the Commission on the basis of actual verified cif costs submitted by one of the main importers.

(24) For the purpose of the determination of the provisional dumping margin and in cases where transactions were made on a free-on-board ('fob') basis, the Commission calculated the cif costs on the basis of the actual verified cif costs submitted by one of the main importers.

However, in cases where sales were made on a cif basis, the cif cost reported by the exporter concerned were used. For the purpose of the determination of the definitive dumping margin and further to the comments received, the Commission reviewed this approach. It was found that the cif cost reported by the exporter concerned in cases where sales were made on a cif basis were in fact over estimates and should be disregarded. Consequently, and since no evidence was submitted showing that the actual cif costs of the above mentioned importer were unreliable or incorrect, the Commission considered it appropriate to apply these to all Chinese export transactions reported.

4. **Comparison**

4.1. *Transport costs*

(25) One Chinese exporter claimed that in view of the company's close location to the port, its own transport cost should have been used in order to calculate the fob prices in the United States of America ('the USA') which was retained as the analogue country. The two other Chinese exporters requested that an average of the transport cost of the third exporter and the inland transport cost found in the analogue country be used.

(26) Costs and prices in a non-market economy country are distorted by state influence and are thus not a function of normal market signals. This also applies to transport cost and this is why the actual transport costs of the Chinese exporter were not used but rather the actual verified transport cost incurred by the producers in the analogue country. The argument that for one Chinese producer these costs had been verified by the Commission in the framework of the MES investigation is irrelevant since no market economy treatment was granted in this investigation. Therefore, the proposal to use transport cost incurred by the aforementioned exporter had to be rejected.

(27) The Commission further investigated the appropriateness of the comparison of the normal value and export price on a fob-basis. In this regard, account was taken of the fact that in some instances the distance between the factories and the port in the exporting country was considerable. For the purpose of the definitive determination, it was therefore considered appropriate to change the basis of the comparison to ex-works. The appropriate adjustments were made on the export price and in the absence of any other reliable information in this respect, the lowest actual inland transport cost found on the US domestic market was used as a basis for calculating the adjustment.

4.2. *Production process*

(28) The Chinese exporters reiterated their claim for an adjustment for differences in the production process. They argued that it was less capital intensive than the one used in the analogue country, due to the use of more sophisticated ovens in the USA.

(29) As regards differences in the production process between a non-market economy country and the respective analogue country, it is the Commission's position to grant an adjustment for comparative advantages. However, such allowances cannot be given selectively for certain cost elements which may not provide a representative picture overall.

4.3. *Comparative advantages*

(30) The Chinese exporters reiterated their claim for an adjustment for natural comparative advantages vis-à-vis the analogue country in terms of access to raw material. In this regard, the exporters alleged that the normal value of the analogue country should not have been used as such in order to compare it to the export price due to the fact that the PRC had the largest coal reserves worldwide, which allow efficient mining and therefore had an impact on the price of the raw material and consequently of the foundry coke. Furthermore, the Chinese exporters alleged that Chinese producers had easy access to the raw material, due to surface mining, in contrast to the USA, where coal is mainly mined underground.

(31) The Commission investigated in further detail whether or not Chinese producers had natural comparative advantages compared to the US-producers. In this regard, the investigation revealed firstly that, in contrast to what was claimed, the USA had the largest coal reserves worldwide. Moreover, it was found that the USA made extensive use of surface mining and that the amount of surface mining was likely to be equivalent to that of the PRC. Moreover, the investigation revealed that underground mining was also practised in the PRC. In conclusion, it was therefore established that the USA and the PRC had similar access to the raw material and that both countries had the same comparative advantages. An adjustment was consequently not justified. The Commission confirms the provisional findings in this respect set out in recital 51 of the provisional Decision and reaffirms that, pursuant to the basic Decision, the selection of the USA as an analogue country in the present proceeding was the most appropriate and reasonable choice.

4.4. *Commission fee*

(32) One Chinese exporter claimed that the commission fee paid should not have been deducted from the export price. The claim was accepted and the export prices were adjusted accordingly.

5. **Dumping margin**

(33) As announced in recital 58 of the provisional Decision, the level of cooperation of the Chinese producers/exporters was further investigated and was found to be 57,8 % of the total exported volume of foundry coke into the

Community during the IP. It should be noted that given that separate Eurostat import data for foundry coke were not available, the volume of foundry coke imported as reported, and verified, by the co-operating importers was taken as a basis to calculate the level of cooperation.

(34) In the calculation of the single country-wide dumping margin, the Commission consequently had to take into account the high level of non cooperation, in order not to reward non-cooperating parties. In this regard, a dumping margin, which corresponded to the highest margin established for a representative transaction by one co-operating company in the PRC, was attributed to the non-cooperating producers/exporters. The single country-wide dumping margin was subsequently calculated as a weighted average of the margin established for the cooperating producers/exporters and the margin established for non-cooperating producers/exporters.

(35) The definitive single country-wide dumping margin expressed as a percentage of the cif export price free at Community frontier exceeded 60 %.

E. COMMUNITY INDUSTRY

(36) Since no representations were made by any interested parties as regards the provisional definition of the Community industry, the conclusions in recitals 60 to 65 of the provisional Decision are hereby confirmed.

F. INJURY

1. Preliminary remark

(37) The examination of trends relevant for the determination of injury covered the period 1 January 1995 to the end of the IP.

(38) One interested party argued that the choice of 1995 as a starting year for the data collection has distorted the injury analysis. It alleged that this year was exceptionally good for the Community industry due to a very high demand, whereas using the year 1994 as a starting point would have shown that the situation of the Community industry in the IP was at the same level as in 1994 and therefore it did not suffer injury.

(39) It should be noted that the purpose of the injury investigation is to evaluate the effect of the dumped imports on the economic situation of the Community industry during the IP. In order to make such an analysis, trends are established for a number of indicators on the basis of information relating to a number of years preceding the IP. The purpose of this analysis is not to do an end-point to end-point analysis but rather to assess the developments within the entire period considered in order to determine whether the situation of the Community industry in the IP can be considered as injurious. In this respect, given the situation of the Community industry in the IP, the findings of injury suffered by the Community industry in the IP would have been reached regardless of whether 1994 or 1995 was taken as the starting point.

2. Apparent Community consumption

(40) Since no new representations were received on apparent consumption on the Community market, the conclusions in recitals 66 to 67 of the provisional Decision are hereby confirmed.

3. Imports originating in the PRC

3.1. *Volume of the imports concerned; market share, share of production and evolution of the prices of the imports concerned*

(41) In the absence of new representations regarding the import volume and market share of dumped imports, the facts and findings set out in recitals 68 to 72 of the provisional Decision are hereby confirmed.

3.2. *Price undercutting*

(42) One interested party argued that in order to carry out the undercutting calculation on a fair basis, the prices charged by the Community industry should be compared to the importer's selling prices adjusted for a lower heating value due to the lower fixed carbon content and for the investments needed for the use of Chinese foundry coke.

(43) It should be noted that the difference in heating value has already been duly taken into account in the calculation of price undercutting (see recital 74 of the provisional Decision). Furthermore, the information provided by interested parties shows that no dedicated equipment is required in order to use either the product concerned or that produced in the Community. Both the product concerned and Community foundry coke can be used in any cupola oven, even if the cupola oven needs to be adjusted for the different grades of foundry coke used, irrespective of its origin. This claim is therefore not relevant.

(44) It was claimed that the adjustment of the Chinese prices for a lower fixed carbon content did not sufficiently reflect the differences in physical characteristics between the product concerned and the Community foundry coke. It was thus proposed that the market value of this difference should be based on the penalties stipulated in the contracts for exceeding the agreed maximum levels in each of these items.

(45) The information presented by interested parties shows that sales of foundry coke are generally based on contracts where both parties stipulate minimum/maximum levels for the contents of ash, moisture and volatile matter, determine penalties that will apply if those limits are exceeded and agree on prices. It is therefore normal that the same price is paid for foundry coke in different grades provided the stipulated limits are not exceeded. Moreover, the export prices reported by the Chinese exporting producers in their export transactions used in the calculation of price undercutting are those before the application of any contractual penalty. In view of the above, it is considered inappropriate to value the difference in content of ash, moisture and/or volatile matter between the product concerned and Community foundry coke on contractual penalties.

(46) One interested party claimed that in order to compare the product concerned and the Community foundry coke at the same level of trade, an adjustment should be made to the Chinese import prices to include, not only the selling and financing costs incurred by unrelated importers, but also their profit margin.

(47) This request is considered justifiable in order to compare both products at the same level of trade. Therefore the adjustment made at the provisional stage for selling and financing costs incurred by importers in the Community should also include the profit margin achieved by unrelated importers on their sales of the product concerned. This adjustment has been done on the basis of the weighted average profitability reported by the cooperating unrelated importers during the IP, 7,2 %.

(48) On the basis of the above it is concluded that during the IP, Chinese foundry coke was sold in the Community at prices which undercut the Community industry's prices, when expressed as a percentage of the latter, by 25,7 %.

4. **Situation of the Community industry**

(49) In the absence of any comments, the provisional findings regarding stocks, sales volume and market share (growth), investments, employment and productivity are hereby confirmed.

4.1. *Production, capacity and capacity utilisation*

(50) One user argued that the decrease in production and capacity utilisation found in the provisional Decision was not due to the increase in the volume of imports of the product concerned but rather to technical factors. To support this statement, it pointed out that the quantity of foundry coke produced depended on the coking time used: more foundry coke would be produced with longer coking time, but the capacity utilisation of foundry coke would be reduced accordingly. Also, as foundry coke production generates around 10 % of waste ('coke breeze') and at least 10-15 % of coke in pieces with a diameter less than 80 mm, it claimed that for a nominal capacity of 100 %, the actual production volume of the Community industry may only be 75 %. Finally, it argued that, unless the machinery is constantly upgraded, the Community industry's actual capacity would drop by 1,3-1,5 % per year.

(51) With respect to the assessment of production capacity, it was found that the size of foundry coke correlates not only with the coking time (the longer the coking time, the higher the foundry coke yield) but also with the blend (the producer specific mix of coking coals and antifracturants) and with the oven temperature (higher temperature allows shorter coking time) used in the production. In addition, the assessment of production capacity for the Community industry was based on a uniform formula which took into account maximal input of coking coal per oven, operative days per year (365), number of pushes (unloading of ovens) per day, yield of coking coal's volatile matter converted into coking gas during carbonisation as well as size yield. As regards constant upgrading of the machinery, this is the reason for the yearly investments made by the Community industry as explained in recital 91 of the provisional Decision. In view of the above, the claim that the decrease in production and capacity utilisation is independent of the effect of the dumped imports should be rejected and the conclusions in recitals 78 to 81 of the provisional Decision are hereby confirmed.

4.2. *Sales prices and factors affecting sales prices including wages*

(52) Regarding the development of the weighted average unit prices and unit costs, two phases could be identified, one between 1995 and 1997 and the second between 1997 and the IP. In the first phase, the prices of the Community industry increased by 6 %, coinciding with an increase in the prices of the raw materials. In the second phase, the Community industry's prices decreased more than the prices of the raw materials while its unit costs increased due to a decrease in the capacity utilisation. In these circumstances the Community industry's prices were prevented from increasing to a level sufficient to cover costs between 1997 and the IP.

(53) Concerning the cost of production two phases were identified. Between 1995 and 1997, despite an increase in the costs (mainly in raw materials) these production costs could be passed on to the sales prices and therefore the Community industry remained profitable. However, between 1997 and the IP, the capacity utilisation of the Community industry decreased and therefore fixed costs which, in such an industry comprise all costs except raw materials, had to be allocated over a declining production, with the result that the unit costs increased. Furthermore, the sales volume and sales prices of the Community industry decreased. The combined effect of an, increase in costs and a decrease in sales volume (– 8 %) and prices (– 7 %) resulted in the Community industry posting losses amounting to – 5.5 % in the IP.

(54) Regarding in particular labour costs, despite decreasing in absolute terms between 1997 and the IP, the unit cost of labour has increased as a result of the decrease in the units produced.

4.3. *Profitability, cash flow, return on investment and ability to raise capital*

(55) It should be noted that the findings in recital 89 of the provisional Decision concerning the Community industry's profitability have been revised to take account of a calculation error which occurred at the provisional stage. The profitability of the Community industry also followed the above mentioned two phases: between 1995 and 1997 profitability remained positive (9,4 % in 1995, 14,1 % in 1996 and 8,1 % in 1997) whereas profitability decreased to 1,3 % in 1998 and then to losses amounting to – 5,5 % in the IP.

(56) Regarding cash flow it developed from an index of 100 in 1995, to 141 in 1996, to 96 in 1997, to 33 in 1998 and to – 16 in the IP. The trend shows that the situation of the Community industry in terms of cash flow deteriorated sharply between 1997 and the IP.

(57) Concerning return on investments and ability to raise capital, between 1995 and 1997 the profit before taxes generated by the Community industry was sufficient to cover investments in new assets. However, in 1998 and in the IP, the profits generated could not cover the investments in new assets.

4.4. *Magnitude of the actual margin of dumping*

(58) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the PRC, this impact cannot be considered to be negligible.

5. **Conclusion on injury**

(59) On the basis of the facts and considerations in recitals 50 to 58, it can clearly be concluded that the situation of the Community industry in the IP was injurious. In particular, the Community industry suffered losses as a result of a decrease in its sales volume and sales prices, together with an increase in unit costs resulting from a decrease in capacity utilisation. The provisional findings in recital 98 of the provisional Decision regarding the material injury suffered by the Community industry are therefore confirmed.

G. **CAUSATION**

(60) In the provisional Decision it was concluded that there was strong evidence of a causal link between the dumped Chinese imports and the material injury found. It was found that, while consumption remained stable, the volume of Chinese imports increased by 63 % over the period considered and their market share increased from 17,3 % in 1995 to 27,9 % in the IP. The increase in market share by the Chinese imports corresponded to the same decrease in the market share of the Community industry. Furthermore, the prices of the Chinese imports significantly undercut those of the Community industry in the IP (25,7 %). The increase in Chinese imports coincided with a decrease in the sales volume and in the capacity utilisation of the Community industry, contributing to an increase in unit costs, which led to substantial losses in the IP (– 5,5 %).

(61) Several interested parties claimed that the evolution of the Community industry's prices and costs were not influenced by the Chinese imports but were driven by the prices of the main raw material, coking coal. In particular, one user claimed that the price of the coking coal imported from the USA increased substantially over the period, essentially as a result of the appreciation of the US dollar which could not be compensated by a decrease in freight costs. However, no supporting evidence was provided.

(62) Regarding coking coal prices, as stated in recital 119 of the provisional Decision, the raw material prices increased between 1995 and 1997 and then decreased between 1997 and the IP. Although the ECU/EUR depreciated against the US dollar during the period considered, it was found that both fob-prices of coking coal from the USA and Atlantic freight costs have decreased, compensating the effects of the appreciation of the US dollar since 1997.

(63) Furthermore, the sales prices of Community foundry coke between 1997 and the IP decreased by more than the decrease in the unit price of raw materials. On this basis, the conclusion in recital 120 of the provisional Decision that the Community industry's sales prices decreased faster than the decrease in raw material prices is hereby confirmed.

(64) One exporting producer also argued that Chinese imports could not have caused injury to the Community industry as the Community industry's profitability increased between 1995 and 1996 while the Chinese import prices were at their lowest level during the same period.

(65) In this respect it should firstly be noted that the causal link between the dumped imports and the situation of the Community industry should be established during the IP. Moreover, the development of Chinese import prices between 1995 and 1997 was found to be linked to the improved stability of quality of the product concerned. Finally, in the IP the Chinese prices were found to have decreased and to substantially undercut those of the Community industry, which resulted in a significant increase in the volume of Chinese imports in the IP.

(66) In conclusion and, given that no other possible injury factors have been found nor have any further arguments concerning the causal link between the dumped imports originating in the PRC and the material injury been submitted, the provisional findings on the causation of injury in recitals 99 to 127 of the provisional Decision are hereby confirmed.

H. **COMMUNITY INTEREST**

1. **Preliminary remarks**

(67) It should be recalled from recitals 128 to 184 of the provisional Decision that an appreciation of all the various interests was made, including the interests of the Community industry, importers and industrial users. The Commission provisionally concluded that there were no compelling reasons not to impose anti-dumping measures against the dumped imports originating in the PRC.

2. **Impact of the measures on the Community industry**

(68) As no new facts or arguments were submitted by any party with regard to the impact of the anti-dumping measures on the Community industry, the findings in recitals 135 to 145 of the provisional Decision are hereby confirmed.

3. **Impact of the measures on importers/traders**

(69) One importer argued that the interests of importers/traders had not been properly assessed. In particular, it claimed that although the product concerned was a small part of the importers/traders overall activities, it had a substantial positive effect on their total costs and turnover due to the economies of scale of importing larger quantities of different kinds of coal products, including foundry coke. It also claimed that there are no adequate alternative sources of supply to Chinese foundry coke.

(70) It should firstly be noted that any economy of scale attributable to the imports of the product concerned is a result of dumping practices by the Chinese exporting producers. Furthermore, the small percentage of the total coal business affected by the imposition of anti-dumping measures on foundry coke (less than 2,5 % of total turnover) negates the possibility of substantial economies of scale being seriously jeopardised.

(71) As regards alternative sources of supply, it should be recalled that the aim of the imposition of anti-dumping measures is not to prevent imports of the product concerned into the Community, but to eliminate the trade distorting effects of the injurious dumping and to restore effective competition. Moreover, it is unlikely that importers/traders would cease importing from the PRC given the investments made in the PRC and the quality of the product concerned. Finally, importers/traders also trade in foundry coke produced by the Community industry.

(72) Consequently, the conclusions in recitals 146 to 151 of the provisional Decision regarding the likely impact of anti-dumping measures on importers/traders are hereby confirmed.

4. **Impact of the measures on users**

4.1. *Preliminary remarks*

(73) At the provisional stage of the investigation, the likely effects of imposing/not-imposing anti-dumping measures were examined on the basis of the substantiated information presented by cooperating users, including a major producer of stone wool and a number of foundries.

(74) Certain users argued that the data used to examine the impact of anti-dumping duties on the foundries fell short of being representative. A further examination of the effects of the imposition of measures on users was made on the basis of additional information received from the following users:

Stone wool producers

— Partek Paroc Oy, Helsinki, Finland,

Foundries

— CFFC-Pamco Industries SA, Paris, France,

— Chamberlin & Hill plc, Walsall, UK,

— Cradley Castings Ltd, Cradley, UK,

— Darcast Components Ltd, Smethwick, UK,

— Eisengießerei Kronach Karl Sperber GmbH, Kronach, Germany,

— FASS SA, Sancerre, France,

— Fonderia de Montorso Spa, Vicenza, Italy,

— Fonderies franco-belges SA, Merville, France,

— Fucoli SA, Coimbra, Portugal,

— Godin SA, Guise, France,

— Guss Komponenten GmbH, Hall in Tirol, Austria,

— Jones and Champbell Ltd, Larbert, UK.

— Piret SA, Gilly, Belgium,

— Römheld & Moelle GmbH, Mainz, Germany,

— Sachs Gießerei GmbH, Kitzingen, Germany,

— Tiroler Röhren- und Metallwerke AG, Hall in Tirol, Austria,

— V. Luzuriaga-Tafalla SA, Tafalla, Spain,

Lead smelter

— Tudor SA, Madrid, Spain.

4.2. *Stone wool producers*

(75) The definitive conclusions regarding the impact of the anti-dumping measures on stone wool producers are based on the information provided by Rockwool International A/S, Copenhagen, Denmark, on behalf of four subsidiaries as mentioned in recital 132 of the provisional Decision, and Partek Paroc Oy, Helsinki, Finland.

(76) Foundry coke has been found to represent 2,8 % of the total cost of production of stone wool producers, whose profitability was found to have increased from 6,5 % in 1997 to 7,9 % in 1998.

(77) It was claimed that contrary to the provisional findings, the Community industry was likely to increase its prices by the full amount of the anti-dumping duty imposed.

(78) The information provided by interested parties shows that the prices of Community producers have largely remained at the same level as during the IP, since price negotiations are normally conducted annually at the end of the year. In the negotiations for the year 2001, price increases are being discussed. These increases can be attributed partly to the imposition of the anti-dumping measure but also to the increase in the Community industry's costs. The expected benefit to the Community industry from the imposition of anti-dumping measures is likely to be in the form of increased production and sales resulting in a decrease in unit costs, allowing the Community industry to regin profitability.

(79) In any event, even assuming that the Community industry increases its prices by the full amount of the duty, the maximum hypothetical increase in the costs of stone wool producers would be around 1 %. Should this occur and assuming that all other costs items remain equal, an increase in the costs of stone wool producers resulting from the imposition of anti-dumping measures as described above would require the maximum increase in prices of less than 1 % in order to maintain the same level of profitability.

(80) It was reiterated that stone wool producers will be forced to relocate production facilities in order to avoid a reduction of profitability if anti-dumping measures are imposed, since the resulting increases in costs cannot be passed on to the final customers.

(81) It should be noted that in the stone wool market it is fundamental that producers are situated close to their industrial customers, and have flexibility in production in order to meet the required demand and service. Given the above findings on the likely effects of the anti-dumping measures and the nature of the stone wool market in recital 79, it is considered unlikely that such a price increase of foundry coke would result in a relocation of production outside the Community.

(82) In view of the above, the conclusions in recitals 153 to 166 of the provisional Decision, that the imposition of anti-dumping measures on Chinese foundry coke is not expected to significantly affect the economic situation of stone wool producers, are hereby confirmed.

4.3. *Foundries*

(83) In recital 175 of the provisional Decision the Commission indicated that it would further look into the profitability of foundries at the definitive stage on the basis of additional information submitted by interested parties subsequent to the disclosure of the provisional findings.

(84) The conclusions set out below in recitals 88 and 89 are based on all substantiated data provided by 22 foundries of different sizes in terms of turnover, employment and profitability. They are located in eight Member States (United Kingdom, Belgium, Austria, Portugal, Germany, France, Italy and Spain) and produce a wide range of castings for the main end-use sectors such as the automotive industry (e.g. motor blocks and power steerings), the mechanical industry (e.g. pumps and blowers) as well as the construction industry (for example water conveyance and drainage). In view of the above, the data provided by these companies is considered sufficiently representative of the situation of foundries.

(85) The Committee of Associations of European Foundries (CAEF) argued that the interest of foundries had not been properly assessed at the provisional stage. In particular, it claimed that foundries that cooperated at the provisional stage and whose data was retained for this analysis produced mainly high added value products generating profit margins well above the industry average and were thus unrepresentative of the situation of this industry. The CAEF supported this allegation by submitting information on the profitability of some individual foundries as well as estimates provided by the national foundry associations claiming that the latter should be used to assess the impact of anti-dumping measures on the overall sector of foundries and that the data submitted by individual companies should be disregarded.

(86) In this respect it should be noted that the data presented by the national foundry associations are based on estimations and/or relate also to foundries not using foundry coke. Furthermore, the data used to analyse the effect of the anti-dumping measures on foundries stem from foundries of different sizes in several Member States and producing castings for various end-uses. Moreover, the data provided by these companies has been duly substantiated, namely by audited accounts. In view of the above, it does not appear appropriate to disregard, the data provided by cooperating foundries and to use in its place the information presented by the national foundry associations.

(87) The CAEF reiterated its argument that the imposition of anti-dumping measures would result in a cost increase for foundries. Such increase in costs, which foundries cannot pass on to their customers, would translate into decreasing profits which would have to be compensated by a decrease in the workforce, the latter being more significant than that of the Community industry of foundry coke. It also pointed out that any increase in the price of foundry coke would affect the competitiveness of the foundries.

(88) Since foundry coke has been found to represent 1,8 % of the foundries' total cost of production, the imposition of an anti-dumping duty may result in a maximum hypothetical increase in costs of foundries of less than 0,8 %. This has been calculated even by assuming that the importers pass the duty fully on and that the Community industry increases its prices by the full amount of the duty.

(89) Subsequently, it is unlikely that the estimated increase in the foundries' costs of production would endanger their profitability. In order to appreciate such a cost impact, it should be noted that between 1997 and 1998 the average price per tonne of castings increased by 4 %. As the foundries' costs of production remained stable, their weighted average profitability increased from 4,4 % in 1997 to 7,4 % in 1998. Furthermore, it has to be borne in mind that the foundries have to cope with fluctuations in their main cost items such as prices of scrap, namely the main raw material used in the production of cast iron, as well as fluctuations in exchange rates. Consequently, the negative impact of the measures for foundries' cost of production, profitability, competitiveness or employment, if any, is likely to be very limited.

(90) This further analysis has confirmed that the conclusions drawn by the Commission in recital 176 of the provisional Decision, that the impact of an anti-dumping measure is not likely to significantly affect the economic situation of Community foundries, is hereby confirmed.

4.4. *Zinc or lead smelter*

(91) One response was received from a company using foundry coke in the captive production of lead and lead alloys used in its battery manufacturing plant. Since this producer smelts lead in a captive operation, indicators such as costs, prices and profitability were not available for the activity relating to the smelting of lead. The data provided by this company could, therefore, not be taken into consideration for the assessment of the impact of imposing an anti-dumping measure.

5. **Other arguments concerning Community interest**

(92) Users argued that, as the Community industry is not capable of supplying the entire Community market, any change in the current structure of supply could result in a general supply shortage. It has been argued that the imposition of provisional anti-dumping measures has already led to a shortage of supply in the Community market and to a price increase negatively affecting the position of Community users.

(93) First of all, it should be recalled that it is likely that in the absence of anti-dumping measures, the situation of the Community industry would further deteriorate, leading to medium/long-term closure of companies, as stated in recitals 177 to 180 of the provisional Decision. This conclusion has been reached particularly in view of the loss of market share and deterioration of the profitability of the Community industry during the period considered. This situation would result in a limitation in the sources of supply which could lead to a shortage of supply, as well as a reduction in effective competition on the Community market.

(94) Secondly, it is unlikely that the imports from the PRC will disappear from the Community market as a result of the imposition of anti-dumping measures. This conclusion has been reached in particular in view of the investments made by Community importers/traders, the channels of supply already established in the PRC, the quality of the product concerned and the fact that the Community industry is not capable of supplying the entire Community market.

(95) In addition, information available to the Commission indicates that certain shortages of Chinese foundry coke took place after the initiation of the anti-dumping proceeding and before the imposition of provisional measures for reasons unrelated to the anti-dumping proceeding. Indeed, according to this information, the limited supplies of Chinese foundry coke were due to a shortage of railcars to transport the foundry coke from inland China to the harbours and to a shortage of coking coal in the PRC, which in turn led to a certain price increase. The reduced production or even disappearance of the Community industry would in such circumstances accentuate the dependence of the Community market on Chinese foundry coke.

6. **Conclusion on Community interest**

(96) After carefully examining all the arguments raised, it is concluded that there are no compelling reasons not to impose anti-dumping measures in the present case. Therefore the conclusions set out in recitals 128 to 184 of the provisional Decision are confirmed.

I. **DEFINITIVE ANTI-DUMPING MEASURES**

(97) In view of the conclusions reached regarding dumping, injury, causation and Community interest, it is considered that definitive anti-dumping measures should be taken in order to prevent further injury being caused to the Community industry by the dumped imports originating in the PRC.

1. **Injury elimination level**

(98) In the provisional Decision and for establishing the level of the duty, account was taken of the dumping margin found and the duty necessary to remove the injury caused by the dumped imports. It was therefore provisionally determined that the removal of such injury required that the prices of the Chinese imports be increased to a non-injurious level. This non-injurious price was based on a comparison of the prices of dumped imports and the non-injurious price of the Community industry. The latter was calculated by adding to the average sales prices of the Community industry the profit shortfall during the IP and a reasonable margin of profit. A profit margin of 9,6 % on sales before tax appeared to be reasonable taking into account what amount the Community industry could reasonably expect to obtain in the absence of dumping.

(99) Some interested parties questioned both the reasonableness of the profit margin used and its justification. They claimed that the profit margin achieved by the Community industry in 1996 was exceptional and that a more reasonable profit margin would be that achieved in 1995 or in 1997.

(100) The determination of the injury elimination level was re-examined in light of the revised profitability findings. It was found that a profit margin of 10,5 % on sales would be the profitability that the Community industry could have achieved in the absence of the dumped imports. This was the weighted average profit margin achieved by the Community industry between 1995 to 1997 time before the increased market penetration of the Chinese imports.

(101) The Chinese import prices as adjusted for the calculation of price undercutting were compared, for the IP, with the weighted average non-injurious prices of the Community industry. The difference was then expressed as a percentage of the total cif import value. For the purpose of calculating a country-wide injury margin, account was taken of the low level of cooperation and the same methodology as that described in recital 34 was followed. The definitive country-wide injury margin amounted to 43,6 %.

2. **Form and level of the definitive measure**

(102) Since the injury margin is below the dumping margin established, the definitive duty should be set at the level of the injury margin established at 43,6 %.

(103) In order to ensure the efficiency of the measures and to discourage any absorption of the anti-dumping measure through a decrease in the export prices, it was found that the duty should be imposed in the form of a specific amount per tonne. This amount results from the application of the injury margin to the export prices used in the calculation of the injury elimination level during the IP. Therefore the duty amounts to EUR 32,6 per tonne.

(104) Subsequent to the imposition of the provisional anti-dumping measures, certain Chinese exporters that cooperated in the investigation offered undertakings within the meaning of Article 8(1) of the basic Decision. However, these undertakings could not be accepted, as they did not contain the necessary guarantees on the part of the Chinese authorities to allow adequate monitoring. In these circumstances, a specific duty should be imposed at the level of injury definitively established. It is to be noted, however, that the measure could be modified, if ever there was a change in circumstances such that the conditions for the acceptance of an undertaking were met.

J. **COLLECTION OF THE PROVISIONAL DUTY**

(105) In view of the clarification of the product scope subsequent to the imposition of the provisional measures, the amounts secured by way of provisional anti-dumping duty should be definitively collected for all imports except in those cases where coke of coal in pieces larger than 80 mm has been declared for import together with coke of coal of smaller sizes, in which cases the amounts secured by way of provisional anti-dumping duties should be released,

HAS ADOPTED THIS DECISION:

Article 1

1. Except as provided for in paragraph 3 a definitive anti-dumping duty is hereby imposed on imports of coke of coal in pieces larger than 80 mm in maximum diameter, falling within CN code ex 2704 00 19 (TARIC code 2704 00 19 10), and originating in the People's Republic of China.

2. The amount of the anti-dumping duty shall be equal to the fixed amount of EUR 32,6 per tonne of dry net weight.

3. In cases where the goods declared for release into free circulation are a mixture of coke as described in paragraph 1 together with coke of coal in pieces of smaller sizes, the quantity of coke subject to the anti-dumping duty in paragraph 2 shall be determined in accordance with Articles 68 to 70 of Council Regulation (EEC) No 2913/92 [1]. However, the anti-dumping duty shall not apply to such a mixture of coke pieces, where it is determined that the maximum diameter of the coke pieces forming part of the goods declared for release into free circulation does not exceed 100 mm.

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

5. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93 [2], the amount of anti-dumping duty, calculated on the basis of the amounts set above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

Article 2

The amounts secured by way of provisional anti-dumping duty imposed by Decision No 1238/2000/ECSC shall be definitively collected at the rate of the duty definitively imposed on imports of coke of coal in pieces with a diameter of more than 80 mm and originating in the People's Republic of China.

The amounts secured in excess of the definitive rate of anti-dumping duty shall be released.

In cases where coke of coal in pieces with a diameter of more than 80 mm has been declared for import together with coke of coal in pieces of smaller sizes, the amounts secured by way of provisional anti-dumping duty shall be released.

Article 3

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

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

Done at Brussels, 14 December 2000.

For the Commission

Pascal LAMY

Member of the Commission

[1] OJ L 302, 19.10.1992, p. 1.

[2] OJ L 253, 11.10.1993, p. 40.

COMMISSION REGULATION (EC) No 2731/2000

of 14 December 2000

amending Regulation (EC) No 2543/95 laying down special detailed rules for the application of the system of export licences for olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats [1], as last amended by Regulation (EC) No 2702/1999 [2], and in particular Article 2(2) thereof,

Whereas:

(1) With a view to simplifying the arrangements, Annex III to Commission Regulation (EC) No 1291/2000 of 9 June 2000, laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [3] lays down the maximum quantities of agricultural products for which import and export licences and advance-fixing certificates are not required and need not be produced. For olive oil those quantities are 100 kg both for import and for export.

(2) Article 2(4) of Commission Regulation (EC) No 2543/95 [4], as last amended by Regulation (EC) No 726/98 [5], provides that no licence is required for exports of 50 kg or less.

(3) In view of the horizontal measures adopted in Regulation (EC) No 1291/2000 concerning the maximum quantities that may be imported or exported by product without a licence, for the sake of simplification and legal safety divergent provisions should not be maintained within each sector and in particular for olive oil.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Oils and Fats,

HAS ADOPTED THIS REGULATION:

Article 1

Article 2(4) of Regulation (EC) No 2543/95 is hereby deleted.

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, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ 172, 30.9.1966, p. 3025/66.
[2] OJ L 327, 21.12.1999, p. 7.
[3] OJ L 152, 24.6.2000, p. 1.
[4] OJ L 260, 31.10.1995, p. 33.
[5] OJ L 100, 1.4.1998, p. 46.

COMMISSION REGULATION (EC) No 2732/2000

of 14 December 2000

amending Regulation (EEC) No 1318/93 on detailed rules for the application of Council Regulation (EEC) No 2067/92 on measures to promote and market quality 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 2067/92 of 30 June 1992 on measures to promote and market quality beef and veal [1], and in particular Article 4 thereof,

Whereas:

(1) Commission Regulation (EEC) No 1318/93 [2], as last amended by Regulation (EC) No 933/2000 [3], lays down detailed rules for the application of the above-mentioned Regulation.

(2) Article 5 of Regulation (EEC) No 1318/93 sets a time limit for the Commission to decide which applications are successful.

(3) Given the current situation on the market for beef and veal and in view of the period of application of the contracts in force, the time limit for the Commission's decision should be put back to allow the programmes under consideration to be brought into line with the new situation on the market.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

The last sentence of the first subparagraph of Article 5(2) of Regulation (EEC) No 1318/93 is replaced by the following:

'For applications submitted in the year 2000, however, the Commission shall determine those successful by 28 February 2001 at the latest.'

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, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 215, 30.7.1992, p. 57.
[2] OJ L 132, 29.5.1993, p. 83.
[3] OJ L 108, 5.5.2000, p. 9.

COMMISSION REGULATION (EC) No 2733/2000

of 14 December 2000

amending Regulation (EC) No 2342/1999 laying down detailed rules for the application of premium schemes 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 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal [1], as amended by Commission Regulation (EC) No 907/2000 [2], and in particular Article 4(8), Article 6(4), Article 11(5) und Article 20 thereof,

Whereas:

(1) Article 41 of Commission Regulation (EC) No 2342/1999 of 28 October 1999 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 on the common organisation of the market in beef and veal as regards premium schemes [3], as last amended by Regulation (EC) No 1900/2000 [4], and repealing Regulation (EEC) No 3886/92 [5], as last amended by Regulation (EC) No 1410/1999 [6], lays down rules on the payment of advances. In view of the difficult situation on the beef and veal market resulting from a sharp fall in demand, linked in particular to the disaffection of anxious consumers and the increase in the number of cases of bovine spongiform encephalopathy, an increase in the advance on the special premium, the suckler cow premium, the slaughter premium and the additional payments should be authorised.

(2) In view of the way the situation is developing, this Regulation should enter into force immediately.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Commitee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 41(1) of Regulation (EC) No 2342/1999, the following last subparagraph is added:

'However, as regards the 2000 calendar year, an advance equal to 80 % of the special premium, the suckler cow premium, the slaughter premium and the additional payments may be paid.'

Article 2

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

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 160, 26.6.1999, p. 21.
[2] OJ L 105, 3.5.2000, p. 6.
[3] OJ L 281, 4.11.1999, p. 30.
[4] OJ L 228, 8.9.2000, p. 25.
[5] OJ L 391, 31.12.1992, p. 20.
[6] OJ L 164, 30.6.1999, p. 53.

COMMISSION REGULATION (EC) No 2734/2000

of 14 December 2000

amending Regulation (EEC) No 1627/89 on the buying-in of beef by invitation to tender and derogating from or amending Regulation (EC) No 562/2000 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 as regards the buying-in of beef

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal [1], as amended by Commission Regulation (EC) No 907/2000 [2], and in particular Articles 38(2) and 47(8) thereof,

Whereas:

(1) Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying-in of beef by invitation to tender [3], as last amended by Regulation (EC) No 2652/2000 [4], opens buying-in by invitation to tender in certain Member States or regions of a Member State for certain quality groups.

(2) Recent events involving bovine spongiform encephalopathy (BSE) have provoked a serious loss of consumer confidence in the safety of beef and veal. This has led to a sharp drop in beef consumption and a significant decline in prices, which may well last for some time. As a result, the market for beef and veal is severely disrupted and there is a risk that it might collapse entirely. Urgent support measures are therefore required in accordance with Article 38(1) of Regulation (EC) No 1254/1999.

(3) In view of the market situation described above and to improve the effectiveness of the measures to be taken, additional products should be accepted into intervention, carcases of animals which have had to be kept for a longer period than usual due to low demand and which exceed the maximum permitted weight should be accepted and, finally, the increase to be applied to the average market price in order to calculate the maximum buying-in price should be adjusted temporarily to take account, in particular, of increased costs and reduced receipts in the sector.

(4) Commission Regulation (EC) No 716/96 of 19 April 1996 adopting exceptional support measures for the beef market in the United Kingdom [5], as last amended by Regulation (EC) No 1176/2000 [6], adopted special measures in respect of bovine animals reared in the United Kingdom which are more than 30 months old. Those measures comprise the slaughtering and subsequent destruction of such cattle. Castrated animals from the United Kingdom exceeding that age are not therefore eligible for public intervention. Moreover, Commission Decision 2000/764/EC [7] lays down that all bovine animals over 30 months of age subject to normal slaughter for human consumption are to be examined by one of the approved rapid tests listed in Annex IV(A) to Commission Decision 98/272/EC [8], as amended by Decision 2000/374/EC [9], as of 1 July 2001 at the latest. Animals that have not been subject to those tests may not therefore be accepted into public intervention with a view to subsequent disposal on the market.

(5) For intervention to develop its full impact, a second special invitation to tender should be opened for the month of December 2000. To this end, an additional deadline should be laid down for the submission of tenders and a delivery period fixed.

(6) In view of the problems of recording prices where there is very little activity in the market and taking into account Community price trends, it may be necessary to assume that the average Community market price, as referred to in the first indent of Article 47(3) of Regulation (EC) No 1254/1999, is less than 84 % of the intervention price and that the latest weekly market price recorded is sufficient to open the second invitation to tender for December 2000.

(7) In order to deal with the further disturbance of the market which may result from the entry onto the market of substantial numbers of male store animals originating in the Community, which have been kept on their holdings of origin due to a lack of demand and for which these holdings no longer have fodder, the necessary support measures should be adopted and buying-in of carcases from such animals permitted. Moreover, to prevent the buying-in of animals almost ready for market, a limit should be placed on the weight of eligible carcases under these arrangements. To avoid granting duplicate aid, a mechanism should be introduced making full payment of the buying-in price

[1] OJ L 160, 26.6.1999, p. 21.
[2] OJ L 105, 3.5.2000, p. 6.
[3] OJ L 159, 10.6.1989, p. 36.
[4] OJ L 303, 2.12.2000, p. 9.
[5] OJ L 99, 20.4.1996, p. 14.
[6] OJ L 131, 1.6.2000, p. 37.
[7] OJ L 305, 6.12.2000, p. 35.
[8] OJ L 122, 24.4.1998, p. 59.
[9] OJ L 135, 8.6.2000, p. 27.

conditional on the producer not having applied for the special premium referred to in Article 4 of Regulation (EC) No 1254/1999 for the animal concerned. Finally, further additions to or derogations from the normal intervention scheme as laid down by Regulation (EC) No 1254/1999 are also needed.

(8) Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 [1], as amended by Commission Regulation (EC) No 2258/2000 [2], introduces a compulsory beef labelling system with which intervention products must comply.

(9) Certain provisions of Commission Regulation (EC) No 562/2000 [3] should accordingly be derogated from or amended.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

Notwithstanding the first subparagraph of Article 4(1) of Regulation (EC) No 562/2000, the additional products which may be bought into intervention shall be as follows:

— category A, class O2 and class O3,

— Ireland: category C, class O4,

— United Kingdom-Northern Ireland: category C, class O4.

Article 3

In addition to Article 4(2) of Regulation (EC) No 562/2000:

(a) carcases and half-carcases of castrated animals reared in the United Kingdom which are more than 30 months old may not be bought in;

(b) in the other Member States, carcases and half-carcases of castrated animals which are more than 30 months old and which have not been subjected to one of the approved rapid tests listed in Annex IV(A) to Decision 98/272/EC may not be bought in.

Article 4

A second special invitation to tender shall be opened for the month of December 2000.

To this end:

— in addition to Article 10 of Regulation (EC) No 562/2000, the deadline for the submission of tenders corresponding to this invitation to tender shall be the third Tuesday of the month of December 2000,

— notwithstanding Article 16(2) of Regulation (EC) No 562/2000, the delivery period shall end on 12 January 2001.

Article 5

Notwithstanding Article 33(3) of Regulation (EC) No 562/2000:

— invitations to tender may be opened where a Member State or region of a Member State meets the condition laid down in the second indent of the first subparagraph of Article 47(3) of Regulation (EC) No 1254/1999,

— the latest weekly market prices recorded in Member States or regions of Member States shall be sufficient to open the buying-in referred to in Article 4 of this Regulation.

Article 6

1. Notwithstanding Article 4(2)(g) of Regulation (EC) No 562/2000, the maximum weight of the carcases referred to therein shall be 380 kg. However, for the first two invitations to tender the maximum weight shall be 430 kg.

2. Notwithstanding Article 36 of Regulation (EC) No 562/2000:

(a) in the case of invitations to tender under Article 47(3) of Regulation (EC) No 1254/1999, the increase applicable to the average market price shall be EUR 14 per 100 kg carcase weight;

(b) in the case of invitations to tender under Article 47(5) of Regulation (EC) No 1254/1999, the increase applicable to the average market price shall be EUR 7 per 100 kg carcase weight.

Article 7

Buying-in in accordance with Regulation (EC) No 562/2000 and this Regulation shall also be opened in respect of carcases and half-carcases of male animals of Community origin under 12 months old in category A and under 14 months old in category C.

To this end:

— the carcase weight shall be between 140 and 200 kg and carcases shall not show any deformities or anomalies of weight vis-à-vis the age of the animal,

[1] OJ L 204, 11.8.2000, p. 1.
[2] OJ L 258, 12.10.2000, p. 26.
[3] OJ L 68, 16.3.2000, p. 22.

— where the carcases and half-carcases presented for intervention are of animals at least nine months old, the buying-in price to be paid to the successful tenderer shall be reduced by EUR 61 per half-carcase delivered. However, where proof is provided that no special premium has been applied for in respect of the animal concerned, that reduction shall not apply,

— the price offered shall be without reference to product quality,

— Article 13(3) of Regulation (EC) No 562/2000 shall apply to buying-in as referred to in this Article. However, the coefficients laid down may be different from those laid down under that Article in the case of buying-in of other products,

— the following provisions of Regulation (EC) No 562/2000 shall not apply:

(a) Article 4(3)(b) and (c), with the exception of those concerning the markings indicating the category and the slaughter number;

(b) Article 18(3);

(c) Article 20, except in the United Kingdom and Portugal;

(d) Article 36;

(e) the information in Annex II relating to the classification of products.

Moreover, with respect to products purchased in conformity with this Article:

— notwithstanding Article 11(5)(a) of Regulation (EC) No 562/2000, tenders must relate to at least 5 tonnes,

— when notifying tenders to the Commission, the intervention agencies must specify the quantities concerned,

— such products shall be stored separately, by invitation to tender or by month of storage, in easily identifiable lots,

— the notifications provided for in Article 31(1), (2), (3) and (4) of Regulation (EC) No 562/2000 shall be sent separately from those required for other intervention products.

Article 8

The following point is added to Article 4(3) of Regulation (EC) No 562/2000:

'(d) labelled in accordance with the system introduced by Regulation (EC) No 1760/2000.'

Article 9

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

It shall apply to the second invitation to tender opened in December 2000 and to the invitations to tender opened during the first quarter of 2001.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

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

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

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

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

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

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

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

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

In artikel 1, lid 1, van Verordening (EEG) nr. 1627/89 bedoelde lidstaten of gebieden van een lidstaat en kwaliteitsgroepen

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

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

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

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

COMMISSION REGULATION (EC) No 2735/2000
of 14 December 2000
fixing the 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 (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], as last amended by Regulation (EC) No 1670/2000 [2], and in particular Article 31(3) thereof,

Whereas:

(1) Article 31 of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty.

(2) Regulation (EC) No 1255/1999 provides that when the refunds on the products listed in Article 1 of the abovementioned Regulation, exported in the natural state, are being fixed, account must be taken of:

— the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,

— marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,

— the aims of the common organisation of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,

— the limits resulting from agreements concluded in accordance with Article 300 of the Treaty, and

— the need to avoid disturbances on the Community market, and

— the economic aspect of the proposed exports.

(3) Article 31(5) of Regulation (EC) No 1255/1999 provides that when prices within the Community are being determined account should be taken of the ruling prices which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of:

(a) prices ruling on third country markets;

(b) the most favourable prices in third countries of destination for third country imports;

(c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and

(d) free-at-Community-frontier offer prices.

(4) Article 31(3) of Regulation (EC) No 1255/1999 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of the abovementioned Regulation according to destination.

(5) Article 31(3) of Regulation (EC) No 1255/1999 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; the amount of the refund may, however, remain at the same level for more than four weeks.

(6) In accordance with Article 16 of Commission Regulation (EC) No 174/1999 of 26 January 1999 on specific detailed rules for the application of Council Regulation (EC) No 804/68 as regards export licences and export refunds on milk and milk products [3], as last amended by Regulation (EC) No 2357/2000 [4]; the refund granted for milk products containing added sugar is equal to the sum of the two components; one is intended to take account of the quantity of milk products and is calculated by multiplying the basic amount by the milk products content in the product concerned; the other is intended to take account of the quantity of added sucrose and is calculated by multiplying the sucrose content of the entire product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1(1)(d) of Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector [5], however, this second component is applied only if the added sucrose has been produced using sugar beet or cane harvested in the Community.

[1] OJ L 160, 26.6.1999, p. 48.
[2] OJ L 193, 29.7.2000, p. 10.
[3] OJ L 20, 27.1.1999, p. 8.
[4] OJ L 272, 25.10.2000, p. 15.
[5] OJ L 252, 25.9.1999, p. 1.

(7) Commission Regulation (EEC) No 896/84 [1], as last amended by Regulation (EEC) No 222/88 [2], laid down additional provisions concerning the granting of refunds on the change from one milk year to another; those provisions provide for the possibility of varying refunds according to the date of manufacture of the products.

(8) For the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account.

(9) It follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation.

(10) 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 export refunds referred to in Article 31 of Regulation (EC) No 1255/1999 on products exported in the natural state shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 15 December 2000.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 91, 1.4.1984, p. 71.
[2] OJ L 28, 1.2.1988, p. 1.

ANNEX

to the Commission Regulation of 14 December 2000 fixing the export refunds on milk and milk products

Product code	Destination	Unit of measurement	Amount of refund
0401 10 10 9000	970	EUR/100 kg	2,327
0401 10 90 9000	970	EUR/100 kg	2,327
0401 20 11 9100	970	EUR/100 kg	2,327
0401 20 11 9500	970	EUR/100 kg	3,597
0401 20 19 9100	970	EUR/100 kg	2,327
0401 20 19 9500	970	EUR/100 kg	3,597
0401 20 91 9000	970	EUR/100 kg	4,551
0401 20 99 9000	970	EUR/100 kg	4,551
0401 30 11 9400	970	EUR/100 kg	10,50
0401 30 11 9700	970	EUR/100 kg	15,77
0401 30 19 9700	970	EUR/100 kg	15,77
0401 30 31 9100	A02	EUR/100 kg	38,32
0401 30 31 9400	A02	EUR/100 kg	59,85
0401 30 31 9700	A02	EUR/100 kg	66,00
0401 30 39 9100	A02	EUR/100 kg	38,32
0401 30 39 9400	A02	EUR/100 kg	59,85
0401 30 39 9700	A02	EUR/100 kg	66,00
0401 30 91 9100	A02	EUR/100 kg	75,22
0401 30 91 9500	A02	EUR/100 kg	110,55
0401 30 99 9100	A02	EUR/100 kg	75,22
0401 30 99 9500	A02	EUR/100 kg	110,55
0402 10 11 9000	A02	EUR/100 kg	15,00
0402 10 19 9000	A02	EUR/100 kg	15,00
0402 10 91 9000	A02	EUR/kg	0,1500
0402 10 99 9000	A02	EUR/kg	0,1500
0402 21 11 9200	A02	EUR/100 kg	15,00
0402 21 11 9300	A02	EUR/100 kg	59,90
0402 21 11 9500	A02	EUR/100 kg	63,20
0402 21 11 9900	A02	EUR/100 kg	68,00
0402 21 17 9000	A02	EUR/100 kg	15,00
0402 21 19 9300	A02	EUR/100 kg	59,90
0402 21 19 9500	A02	EUR/100 kg	63,20
0402 21 19 9900	A02	EUR/100 kg	68,00
0402 21 91 9100	A02	EUR/100 kg	68,40
0402 21 91 9200	A02	EUR/100 kg	69,00
0402 21 91 9350	A02	EUR/100 kg	69,70
0402 21 91 9500	A02	EUR/100 kg	76,20
0402 21 99 9100	A02	EUR/100 kg	68,40
0402 21 99 9200	A02	EUR/100 kg	69,00
0402 21 99 9300	A02	EUR/100 kg	69,70
0402 21 99 9400	A02	EUR/100 kg	74,50
0402 21 99 9500	A02	EUR/100 kg	76,20
0402 21 99 9600	A02	EUR/100 kg	82,70
0402 21 99 9700	A02	EUR/100 kg	86,30
0402 21 99 9900	A02	EUR/100 kg	90,50
0402 29 15 9200	A02	EUR/kg	0,1500
0402 29 15 9300	A02	EUR/kg	0,5990
0402 29 15 9500	A02	EUR/kg	0,6320
0402 29 15 9900	A02	EUR/kg	0,6800
0402 29 19 9300	A02	EUR/kg	0,5990
0402 29 19 9500	A02	EUR/kg	0,6320
0402 29 19 9900	A02	EUR/kg	0,6800
0402 29 91 9000	A02	EUR/kg	0,6840
0402 29 99 9100	A02	EUR/kg	0,6840
0402 29 99 9500	A02	EUR/kg	0,7450
0402 91 11 9370	A02	EUR/100 kg	9,30
0402 91 19 9370	A02	EUR/100 kg	9,30
0402 91 31 9300	A02	EUR/100 kg	11,00
0402 91 39 9300	A02	EUR/100 kg	11,00
0402 91 99 9000	A02	EUR/100 kg	41,60
0402 99 11 9350	A02	EUR/kg	0,2370
0402 99 19 9350	A02	EUR/kg	0,2370
0402 99 31 9150	A02	EUR/kg	0,2470
0402 99 31 9300	A02	EUR/kg	0,2490
0402 99 31 9500	A02	EUR/kg	0,4290
0402 99 39 9150	A02	EUR/kg	0,2470
0403 90 11 9000	A02	EUR/100 kg	14,80
0403 90 13 9200	A02	EUR/100 kg	14,80
0403 90 13 9300	A02	EUR/100 kg	59,40
0403 90 13 9500	A02	EUR/100 kg	62,50
0403 90 13 9900	A02	EUR/100 kg	67,30
0403 90 19 9000	A02	EUR/100 kg	67,80
0403 90 33 9400	A02	EUR/kg	0,5940
0403 90 33 9900	A02	EUR/kg	0,6730
0403 90 51 9100	970	EUR/100 kg	2,327
0403 90 59 9170	970	EUR/100 kg	15,77
0403 90 59 9310	A02	EUR/100 kg	38,32
0403 90 59 9340	A02	EUR/100 kg	59,20
0403 90 59 9370	A02	EUR/100 kg	59,20
0403 90 59 9510	A02	EUR/100 kg	59,20
0404 90 21 9120	A02	EUR/100 kg	12,80
0404 90 21 9160	A02	EUR/100 kg	15,00
0404 90 23 9120	A02	EUR/100 kg	15,00
0404 90 23 9130	A02	EUR/100 kg	59,90
0404 90 23 9140	A02	EUR/100 kg	63,20
0404 90 23 9150	A02	EUR/100 kg	68,00
0404 90 29 9110	A02	EUR/100 kg	68,40
0404 90 29 9115	A02	EUR/100 kg	69,00
0404 90 29 9125	A02	EUR/100 kg	69,70
0404 90 29 9140	A02	EUR/100 kg	76,20
0404 90 81 9100	A02	EUR/kg	0,1500
0404 90 83 9110	A02	EUR/kg	0,1500
0404 90 83 9130	A02	EUR/kg	0,5990
0404 90 83 9150	A02	EUR/kg	0,6320
0404 90 83 9170	A02	EUR/kg	0,6800
0404 90 83 9936	A02	EUR/kg	0,2370
0405 10 11 9500	A02	EUR/100 kg	165,85
0405 10 11 9700	A02	EUR/100 kg	170,00
0405 10 19 9500	A02	EUR/100 kg	165,85
0405 10 19 9700	A02	EUR/100 kg	170,00
0405 10 30 9100	A02	EUR/100 kg	165,85
0405 10 30 9300	A02	EUR/100 kg	170,00
0405 10 30 9700	A02	EUR/100 kg	170,00
0405 10 50 9300	A02	EUR/100 kg	170,00

Product code	Destination	Unit of measurement	Amount of refund
0405 10 50 9500	A02	EUR/100 kg	165,85
0405 10 50 9700	A02	EUR/100 kg	170,00
0405 10 90 9000	A02	EUR/100 kg	176,22
0405 20 90 9500	A02	EUR/100 kg	155,49
0405 20 90 9700	A02	EUR/100 kg	161,71
0405 90 10 9000	A02	EUR/100 kg	216,00
0405 90 90 9000	A02	EUR/100 kg	170,00
0406 10 20 9100	A00	EUR/100 kg	—
0406 10 20 9230	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	37,68
	L04	EUR/100 kg	37,68
	400	EUR/100 kg	—
	A01	EUR/100 kg	37,68
0406 10 20 9290	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	35,05
	L04	EUR/100 kg	35,05
	400	EUR/100 kg	—
	A01	EUR/100 kg	35,05
0406 10 20 9300	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	15,39
	L04	EUR/100 kg	15,39
	400	EUR/100 kg	—
	A01	EUR/100 kg	15,39
0406 10 20 9610	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	51,11
	L04	EUR/100 kg	51,11
	400	EUR/100 kg	—
	A01	EUR/100 kg	51,11
0406 10 20 9620	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	51,83
	L04	EUR/100 kg	51,83
	400	EUR/100 kg	—
	A01	EUR/100 kg	51,83
0406 10 20 9630	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	57,86
	L04	EUR/100 kg	57,86
	400	EUR/100 kg	—
	A01	EUR/100 kg	57,86
0406 10 20 9640	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	85,03
	L04	EUR/100 kg	85,03
	400	EUR/100 kg	—
	A01	EUR/100 kg	85,03
0406 10 20 9650	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	70,86
	L04	EUR/100 kg	70,86
	400	EUR/100 kg	—
	A01	EUR/100 kg	70,86
0406 10 20 9660	A00	EUR/100 kg	—
0406 10 20 9830	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	26,28
	L04	EUR/100 kg	26,28
	400	EUR/100 kg	—
	A01	EUR/100 kg	26,28
0406 10 20 9850	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	31,87
	L04	EUR/100 kg	31,87
	400	EUR/100 kg	—
	A01	EUR/100 kg	31,87
0406 10 20 9870	A00	EUR/100 kg	—
0406 10 20 9900	A00	EUR/100 kg	—
0406 20 90 9100	A00	EUR/100 kg	—
0406 20 90 9913	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	58,77
	L04	EUR/100 kg	58,77
	400	EUR/100 kg	23,80
	A01	EUR/100 kg	58,77
0406 20 90 9915	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	77,56
	L04	EUR/100 kg	77,56
	400	EUR/100 kg	31,70
	A01	EUR/100 kg	77,56
0406 20 90 9917	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	82,41
	L04	EUR/100 kg	82,41
	400	EUR/100 kg	33,70
	A01	EUR/100 kg	82,41
0406 20 90 9919	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	92,10
	L04	EUR/100 kg	92,10
	400	EUR/100 kg	37,60
	A01	EUR/100 kg	92,10
0406 20 90 9990	A00	EUR/100 kg	—
0406 30 31 9710	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	14,50
	L04	EUR/100 kg	7,74
	400	EUR/100 kg	—
	A01	EUR/100 kg	14,50
0406 30 31 9730	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	21,28
	L04	EUR/100 kg	11,34
	400	EUR/100 kg	—
	A01	EUR/100 kg	21,28
0406 30 31 9910	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	14,50
	L04	EUR/100 kg	7,74
	400	EUR/100 kg	—
	A01	EUR/100 kg	14,50
0406 30 31 9930	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	21,28
	L04	EUR/100 kg	11,34
	400	EUR/100 kg	—
	A01	EUR/100 kg	21,28
0406 30 31 9950	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	30,95
	L04	EUR/100 kg	16,51
	400	EUR/100 kg	—
	A01	EUR/100 kg	30,95

Product code	Destination	Unit of measurement	Amount of refund
0406 30 39 9500	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	21,28
	L04	EUR/100 kg	11,34
	400	EUR/100 kg	—
	A01	EUR/100 kg	21,28
0406 30 39 9700	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	30,95
	L04	EUR/100 kg	16,51
	400	EUR/100 kg	—
	A01	EUR/100 kg	30,95
0406 30 39 9930	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	30,95
	L04	EUR/100 kg	16,51
	400	EUR/100 kg	—
	A01	EUR/100 kg	30,95
0406 30 39 9950	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	35,00
	L04	EUR/100 kg	18,67
	400	EUR/100 kg	—
	A01	EUR/100 kg	35,00
0406 30 90 9000	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	36,72
	L04	EUR/100 kg	19,58
	400	EUR/100 kg	—
	A01	EUR/100 kg	36,72
0406 40 50 9000	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	90,00
	L04	EUR/100 kg	90,00
	400	EUR/100 kg	—
	A01	EUR/100 kg	90,00
0406 40 90 9000	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	92,42
	L04	EUR/100 kg	92,42
	400	EUR/100 kg	—
	A01	EUR/100 kg	92,42
0406 90 13 9000	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	116,37
	L04	EUR/100 kg	101,62
	400	EUR/100 kg	45,30
	A01	EUR/100 kg	116,37
0406 90 15 9100	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	120,25
	L04	EUR/100 kg	105,01
	400	EUR/100 kg	46,70
	A01	EUR/100 kg	120,25
0406 90 17 9100	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	120,25
	L04	EUR/100 kg	105,01
	400	EUR/100 kg	46,70
	A01	EUR/100 kg	120,25
0406 90 21 9900	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	117,54
	L04	EUR/100 kg	102,90
	400	EUR/100 kg	33,50
	A01	EUR/100 kg	117,54
0406 90 23 9900	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	103,92
	L04	EUR/100 kg	90,36
	400	EUR/100 kg	—
	A01	EUR/100 kg	103,92
0406 90 25 9900	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	102,80
	L04	EUR/100 kg	89,77
	400	EUR/100 kg	—
	A01	EUR/100 kg	102,80
0406 90 27 9900	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	93,10
	L04	EUR/100 kg	81,30
	400	EUR/100 kg	—
	A01	EUR/100 kg	93,10
0406 90 31 9119	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	85,71
	L04	EUR/100 kg	74,72
	400	EUR/100 kg	19,20
	A01	EUR/100 kg	85,71
0406 90 33 9119	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	85,71
	L04	EUR/100 kg	74,72
	400	EUR/100 kg	19,20
	A01	EUR/100 kg	85,71
0406 90 33 9919	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	78,60
	L04	EUR/100 kg	68,29
	400	EUR/100 kg	—
	A01	EUR/100 kg	78,60
0406 90 33 9951	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	78,66
	L04	EUR/100 kg	68,98
	400	EUR/100 kg	—
	A01	EUR/100 kg	78,66
0406 90 35 9190	L02	EUR/100 kg	33,29
	L03	EUR/100 kg	—
	A24	EUR/100 kg	121,56
	L04	EUR/100 kg	105,71
	400	EUR/100 kg	46,20
	A01	EUR/100 kg	121,56
0406 90 35 9990	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	121,56
	L04	EUR/100 kg	105,71
	400	EUR/100 kg	30,20
	A01	EUR/100 kg	121,56
0406 90 37 9000	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	116,37
	L04	EUR/100 kg	101,62
	400	EUR/100 kg	45,30
	A01	EUR/100 kg	116,37

Product code	Destination	Unit of measurement	Amount of refund
0406 90 61 9000	L02	EUR/100 kg	47,01
	L03	EUR/100 kg	—
	A24	EUR/100 kg	129,64
	L04	EUR/100 kg	112,00
	400	EUR/100 kg	43,00
	A01	EUR/100 kg	129,64
0406 90 63 9100	L02	EUR/100 kg	42,83
	L03	EUR/100 kg	—
	A24	EUR/100 kg	128,55
	L04	EUR/100 kg	111,41
	400	EUR/100 kg	48,10
	A01	EUR/100 kg	128,55
0406 90 63 9900	L02	EUR/100 kg	34,22
	L03	EUR/100 kg	—
	A24	EUR/100 kg	124,18
	L04	EUR/100 kg	107,11
	400	EUR/100 kg	36,80
	A01	EUR/100 kg	124,18
0406 90 69 9100	A00	EUR/100 kg	—
0406 90 69 9910	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	124,18
	L04	EUR/100 kg	107,11
	400	EUR/100 kg	36,80
	A01	EUR/100 kg	124,18
0406 90 73 9900	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	106,91
	L04	EUR/100 kg	93,28
	400	EUR/100 kg	39,60
	A01	EUR/100 kg	106,91
0406 90 75 9900	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	108,07
	L04	EUR/100 kg	93,90
	400	EUR/100 kg	16,70
	A01	EUR/100 kg	108,07
0406 90 76 9300	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	96,98
	L04	EUR/100 kg	84,68
	400	EUR/100 kg	—
	A01	EUR/100 kg	96,98
0406 90 76 9400	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	108,62
	L04	EUR/100 kg	94,85
	400	EUR/100 kg	17,40
	A01	EUR/100 kg	108,62
0406 90 76 9500	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	102,45
	L04	EUR/100 kg	90,24
	400	EUR/100 kg	17,40
	A01	EUR/100 kg	102,45
0406 90 78 9100	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	102,26
	L04	EUR/100 kg	87,50
	400	EUR/100 kg	—
	A01	EUR/100 kg	102,26
0406 90 78 9300	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	105,98
	L04	EUR/100 kg	92,78
	400	EUR/100 kg	—
	A01	EUR/100 kg	105,98
0406 90 78 9500	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	104,35
	L04	EUR/100 kg	91,91
	400	EUR/100 kg	—
	A01	EUR/100 kg	104,35
0406 90 79 9900	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	86,27
	L04	EUR/100 kg	75,02
	400	EUR/100 kg	—
	A01	EUR/100 kg	86,27
0406 90 81 9900	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	108,62
	L04	EUR/100 kg	94,85
	400	EUR/100 kg	35,80
	A01	EUR/100 kg	108,62
0406 90 85 9910	L02	EUR/100 kg	33,32
	L03	EUR/100 kg	—
	A24	EUR/100 kg	117,90
	L04	EUR/100 kg	102,43
	400	EUR/100 kg	44,60
	A01	EUR/100 kg	117,90
0406 90 85 9991	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	117,90
	L04	EUR/100 kg	102,43
	400	EUR/100 kg	30,20
	A01	EUR/100 kg	117,90
0406 90 85 9995	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	108,07
	L04	EUR/100 kg	93,90
	400	EUR/100 kg	—
	A01	EUR/100 kg	108,07
0406 90 85 9999	A00	EUR/100 kg	—
0406 90 86 9100	A00	EUR/100 kg	—
0406 90 86 9200	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	102,23
	L04	EUR/100 kg	86,17
	400	EUR/100 kg	20,80
	A01	EUR/100 kg	102,23
0406 90 86 9300	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	103,32
	L04	EUR/100 kg	87,41
	400	EUR/100 kg	22,80
	A01	EUR/100 kg	103,32
0406 90 86 9400	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	108,62
	L04	EUR/100 kg	92,87
	400	EUR/100 kg	25,80
	A01	EUR/100 kg	108,62
0406 90 86 9900	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	117,90
	L04	EUR/100 kg	102,43
	400	EUR/100 kg	30,20
	A01	EUR/100 kg	117,90

Product code	Destination	Unit of measurement	Amount of refund
0406 90 87 9100	A00	EUR/100 kg	—
0406 90 87 9200	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	85,19
	L04	EUR/100 kg	71,81
	400	EUR/100 kg	18,60
	A01	EUR/100 kg	85,19
0406 90 87 9300	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	94,89
	L04	EUR/100 kg	80,27
	400	EUR/100 kg	21,00
	A01	EUR/100 kg	94,89
0406 90 87 9400	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	96,33
	L04	EUR/100 kg	82,36
	400	EUR/100 kg	23,00
	A01	EUR/100 kg	96,33
0406 90 87 9951	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	106,68
	L04	EUR/100 kg	93,15
	400	EUR/100 kg	31,80
	A01	EUR/100 kg	106,68
0406 90 87 9971	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	106,68
	L04	EUR/100 kg	93,15
	400	EUR/100 kg	25,80
	A01	EUR/100 kg	106,68
0406 90 87 9972	A24	EUR/100 kg	45,63
	L03	EUR/100 kg	—
	L04	EUR/100 kg	39,68
	400	EUR/100 kg	—
	A01	EUR/100 kg	45,63
0406 90 87 9973	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	104,74
	L04	EUR/100 kg	91,46
	400	EUR/100 kg	18,10
	A01	EUR/100 kg	104,74
0406 90 87 9974	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	113,19
	L04	EUR/100 kg	99,26
	400	EUR/100 kg	18,10
	A01	EUR/100 kg	113,19
0406 90 87 9975	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	114,45
	L04	EUR/100 kg	101,25
	400	EUR/100 kg	24,00
	A01	EUR/100 kg	114,45
0406 90 87 9979	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	103,92
	L04	EUR/100 kg	90,36
	400	EUR/100 kg	18,10
	A01	EUR/100 kg	103,92
0406 90 88 9100	A00	EUR/100 kg	—
0406 90 88 9300	L02	EUR/100 kg	—
	L03	EUR/100 kg	—
	A24	EUR/100 kg	83,50
	L04	EUR/100 kg	70,90
	400	EUR/100 kg	22,80
	A01	EUR/100 kg	83,50

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46).

The other destinations are defined as follows:

L02 Switzerland, Liechtenstein,

L03 Ceuta, Melilla, Iceland, Norway, Andorra, Gibraltar, Holy See (often referred to as Vatican City), Malta, Turkey, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Canada, Cyprus, Australia and New Zealand,

L04 Albania, Slovenia, Croatia, Bosnia and Herzegovina, Yugoslavia and the Former Yugoslav Republic of Macedonia.

970 includes the exports referred to in Articles 36(1)(a) and (c) and 44(1)(a) and (b) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11) and exports under contracts with armed forces stationed on the territory of a Member State which do not come under its flag.

COMMISSION REGULATION (EC) No 2736/2000

of 14 December 2000

amending Regulation (EC) No 1303/2000 adopting the balance and fixing the aid for the supply of products from the eggs and poultrymeat sectors to the Canary Islands under the arrangements provided for in Articles 2, 3 and 4 of Council Regulation (EEC) No 1601/92, regarding the amounts of aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 concering specific measures for the Canary Islands with regard to certain agricultural products [1], as last amended by Regulation (EC) No 1257/1999 [2], and in particular Article 3(4) thereof,

Whereas:

(1) Commission Regulation (EC) No 1303/2000 [3] fixed the amounts of the aid for the supply to the archipelago, of meat and eggs, originating in the rest of the Community. Such aid must be fixed taking into account in particular the costs of supply from the world market, conditions due to the geographical situation of the archipelago and the basis of the current prices on export to third countries for the animals or products concerned.

(2) It follows from applying these rules and criteria to the present situation on the market in poultrymeat that the amounts of aid for such deliveries should be adjusted, taking account of their current volume and ensuring that the share of supplies from the Community is maintained.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 1303/2000 is replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 January 2001.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 173, 27.6.1992, p. 13.
[2] OJ L 160, 26.6.1999, p. 80.
[3] OJ L 148, 22.6.2000, p. 10.

ANNEX

'ANNEX II

Amounts of aid granted for products from the Community market

(EUR/100 kg)

Product code	Amount of aid
0207 12 10 9900	20
0207 12 90 9190	20
0207 12 90 9990	20
0207 14 20 9900	5
0207 14 60 9900	5
0207 14 70 9190	5
0207 14 70 9290	5
0408 11 80 9100	55
0408 91 80 9100	37

Note: The product codes and the footnotes are defined in Regulation (EEC) No 3846/87.'

COMMISSION REGULATION (EC) No 2737/2000
of 14 December 2000
fixing the export refunds on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2], and in particular Article 13(2) thereof,

Whereas:

(1) Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund.

(2) The refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under 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 2513/98 [4].

(3) As far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture. These quantities were fixed in Regulation (EC) No 1501/95.

(4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.

(5) The refund must be fixed once a month. It may be altered in the intervening period.

(6) It follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto.

(7) 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 export refunds on the products listed in Article 1(a), (b) and (c) of Regulation (EEC) No 1766/92, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 15 December 2000.

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

Done at Brussels, 14 December 2000.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 147, 30.6.1995, p. 7.
[4] OJ L 313, 21.11.1998, p. 16.

ANNEX

to the Commission Regulation of 14 December 2000 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

Product code	Destination	Unit of measurement	Amount of refunds
1001 10 00 9200	—	EUR/t	—
1001 10 00 9400	—	EUR/t	—
1001 90 91 9000	—	EUR/t	—
1001 90 99 9000	A00	EUR/t	0
1002 00 00 9000	A00	EUR/t	0
1003 00 10 9000	—	EUR/t	—
1003 00 90 9000	A00	EUR/t	0
1004 00 00 9200	—	EUR/t	—
1004 00 00 9400	—	EUR/t	—
1005 10 90 9000	—	EUR/t	—
1005 90 00 9000	A00	EUR/t	0
1007 00 90 9000	—	EUR/t	—
1008 20 00 9000	—	EUR/t	—
1101 00 11 9000	—	EUR/t	—
1101 00 15 9100	A00	EUR/t	4,00
1101 00 15 9130	A00	EUR/t	3,75
1101 00 15 9150	A00	EUR/t	3,50
1101 00 15 9170	A00	EUR/t	3,25
1101 00 15 9180	A00	EUR/t	3,00
1101 00 15 9190	—	EUR/t	—
1101 00 90 9000	—	EUR/t	—
1102 10 00 9500	A00	EUR/t	35,50
1102 10 00 9700	A00	EUR/t	28,00
1102 10 00 9900	—	EUR/t	—
1103 11 10 9200	A00	EUR/t	0 (1)
1103 11 10 9400	A00	EUR/t	0 (1)
1103 11 10 9900	—	EUR/t	—
1103 11 90 9200	A00	EUR/t	0 (1)
1103 11 90 9800	—	EUR/t	—

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

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46).

COMMISSION REGULATION (EC) No 2738/2000
of 14 December 2000
fixing the corrective amount applicable to the refund on cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2], and in particular Article 13 (8) thereof,

Whereas:

(1) Article 13 (8) of Regulation (EEC) No 1766/92 provides that the export refund applicable to cereals on the day on which application for an export licence is made must be applied on request to exports to be effected during the period of validity of the export licence; whereas, in this case, a corrective amount may be applied to the refund.

(2) Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the 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 2513/98 [4], allows for the fixing of a corrective amount for the products listed in Article 1(1) (c) of Regulation (EEC) No 1766/92; that corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95.

(3) The world market situation or the specific requirements of certain markets may make it necessary to vary the corrective amount according to destination.

(4) The corrective amount must be fixed at the same time as the refund and according to the same procedure; it may be altered in the period between fixings.

(5) It follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto.

(6) 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 corrective amount referred to in Article 1(1) (a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to export refunds fixed in advance except for malt shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 15 December 2000.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 147, 30.6.1995, p. 7.
[4] OJ L 313, 21.11.1998, p. 16.

ANNEX

to the Commission Regulation of 14 December 2000 fixing the corrective amount applicable to the refund on cereals

(EUR/t)

Product code	Destination	Current 12	1st period 1	2nd period 2	3rd period 3	4th period 4	5th period 5	6th period 6
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	—	—	—	—	—	—	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	A00	0	–1,00	–2,00	–3,00	–4,00	—	—
1002 00 00 9000	A00	0	0,00	0,00	0,00	0,00	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	A00	0	–1,00	–2,00	–3,00	–4,00	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	A00	0	0,00	0,00	0,00	0,00	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	A00	0	–1,00	–2,00	–3,00	–4,00	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	A00	0	0,00	0,00	0,00	0,00	—	—
1101 00 15 9130	A00	0	0,00	0,00	0,00	0,00	—	—
1101 00 15 9150	A00	0	0,00	0,00	0,00	0,00	—	—
1101 00 15 9170	A00	0	0,00	0,00	0,00	0,00	—	—
1101 00 15 9180	A00	0	0,00	0,00	0,00	0,00	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	A00	0	0,00	0,00	0,00	0,00	—	—
1102 10 00 9700	A00	0	0,00	0,00	0,00	0,00	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	A00	0	–1,50	–3,00	–4,50	–6,00	—	—
1103 11 10 9400	A00	0	–1,34	–2,68	–4,02	–5,36	—	—
1103 11 10 9900	—	—	—	—	—	—	—	—
1103 11 90 9200	A00	0	–1,37	–2,74	–4,11	–5,48	—	—
1103 11 90 9800	—	—	—	—	—	—	—	—

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46).

COMMISSION REGULATION (EC) No 2739/2000

of 14 December 2000

fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 1701/2000

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 organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2],

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 2513/98 [4], and in particular Article 4 thereof,

Whereas:

(1) An invitation to tender for the refund on exportation of common wheat to all third countries with the exclusion of certain ACP States was opened pursuant to Commission Regulation (EC) No 1701/2000 [5], as amended by Regulation (EC) No 2019/2000 [6].

(2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.

(4) 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

For tenders notified from 8 to 14 December 2000, pursuant to the invitation to tender issued in Regulation (EC) No 1701/2000, the maximum refund on exportation of common wheat shall be EUR 0,00/t.

Article 2

This Regulation shall enter into force on 15 December 2000.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 147, 30.6.1995, p. 7.
[4] OJ L 313, 21.11.1998, p. 16.
[5] OJ L 195, 1.8.2000, p. 18.
[6] OJ L 241, 26.9.2000, p. 37.

COMMISSION REGULATION (EC) No 2740/2000

of 14 December 2000

fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 2014/2000

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 organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2],

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 2513/98 [4], and in particular Article 7 thereof,

Whereas:

(1) An invitation to tender for the refund for the export of common wheat to certain ACP States was opened pursuant to Commission Regulation (EC) No 2014/2000 [5].

(2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.

(4) 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

For tenders notified from 8 to 14 December 2000, pursuant to the invitation to tender issued in Regulation (EC) No 2014/2000, the maximum refund on exportation of common wheat shall be EUR 3,00/t.

Article 2

This Regulation shall enter into force on 15 December 2000.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 147, 30.6.1995, p. 7.
[4] OJ L 313, 21.11.1998, p. 16.
[5] OJ L 241, 26.9.2000, p. 23.

COMMISSION REGULATION (EC) No 2741/2000

of 14 December 2000

fixing the maximum export refund on barley in connection with the invitation to tender issued in Regulation (EC) No 2317/2000

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 organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2],

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 2513/98 [4], and in particular Article 4 thereof,

Whereas:

(1) An invitation to tender for the refund for the export of barley to all third countries except for the United States of America and Canada was opened pursuant to Commission Regulation (EC) No 2317/2000 [5].

(2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund, as well as to any tenderer whose bid relates to an export tax.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.

(4) 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

For tenders notified from 8 to 14 December 2000, pursuant to the invitation to tender issued in Regulation (EC) No 2317/2000, the maximum refund on exportation of barley shall be EUR 0,00/t.

Article 2

This Regulation shall enter into force on 15 December 2000.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 147, 30.6.1995, p. 7.
[4] OJ L 313, 21.11.1998, p. 16.
[5] OJ L 267, 20.10.2000, p. 23.

COMMISSION REGULATION (EC) No 2742/2000

of 14 December 2000

concerning tenders notified in response to the invitation to tender for the export of rye issued in Regulation (EC) No 1740/2000

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 organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2],

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 2513/98 [4], and in particular Article 7 thereof,

Whereas:

(1) An invitation to tender for the refund for the export of rye to all third countries was opened pursuant to Commission Regulation (EC) No 1740/2000 [5].

(2) Article 7 of Regulation (EC) No 1501/95 allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and on the basis of the tenders notified, to make no award.

(3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund should not be fixed.

(4) 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

No action shall be taken on the tenders notified from 8 to 14 December 2000 in response to the invitation to tender for the refund for the export of rye issued in Regulation (EC) No 1740/2000.

Article 2

This Regulation shall enter into force on 15 December 2000.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 147, 30.6.1995, p. 7.
[4] OJ L 313, 21.11.1998, p. 16.
[5] OJ L 199, 5.8.2000, p. 3.

COMMISSION REGULATION (EC) No 2743/2000

of 14 December 2000

fixing the maximum export refund on oats in connection with the invitation to tender issued in Regulation (EC) No 2097/2000

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 organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2],

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 2513/98 [4],

Having regard to Commission Regulation (EC) No 2097/2000 of 3 October 2000 on a special intervention measure for cereals in Finland and Sweden [5] and in particular Article 8 thereof,

Whereas:

(1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland or Sweden to all third countries was opened pursuant to Regulation (EC) No 2097/2000.

(2) Article 8 of Regulation (EC) No 2097/2000 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.

(4) 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

For tenders notified from 8 to 14 December 2000, pursuant to the invitation to tender issued in Regulation (EC) No 2097/2000, the maximum refund on exportation of oats shall be EUR 33,40/t.

Article 2

This Regulation shall enter into force on 15 December 2000.

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

Done at Brussels, 14 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 147, 30.6.1995, p. 7.
[4] OJ L 313, 21.11.1998, p. 16.
[5] OJ L 249, 4.10.2000, p. 15.

COUNCIL REGULATION (EC) No 2744/2000

of 14 December 2000

amending Regulation (EC) No 1950/97 imposing a definitive anti-dumping duty on imports of sacks and bags made of polyethylene or polypropylene originating, *inter alia*, in India

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

A. PREVIOUS PROCEDURE

(1) By Regulation (EC) No 1950/97 [2], the Council imposed a definitive anti-dumping duty of 36,0 % on imports of sacks and bags made of polyethylene or polypropylene (hereinafter 'product concerned') originating, *inter alia*, in India, with the exception of imports from several Indian companies specifically mentioned, which are either subject to a lesser rate of duty or to no duty at all. This Regulation was subsequently amended by Regulation (EC) No 96/1999 [3]. The product is currently classifiable under CN codes 6305 32 81, 6305 33 91, ex 3923 21 00, ex 3923 29 10 and ex 3923 29 90.

B. CURRENT PROCEDURE

(2) The Commission subsequently received an application to initiate a 'new exporter' review of Regulation (EC) No 1950/97, pursuant to Article 11(4) of Regulation (EC) No 384/96 (the 'basic Regulation'), from the Indian producer Subham Polymers Ltd (hereinafter referred to as 'the company concerned'). The company concerned claimed that it was not related to any of the exporting producers in India subject to the anti-dumping measures in force with regard to the product concerned. Furthermore, it claimed that it had not exported the product concerned during the original period of investigation (1 April 1994 to 31 March 1995), but had exported the product concerned to the Community since then.

(3) The product covered by the current review is the same product as the one under consideration in Regulation (EC) No 1950/97.

(4) The Commission examined the evidence submitted by the Indian exporting producer concerned and considered it sufficient to justify the initiation of a review in accordance with the provisions of Article 11(4) of the basic Regulation. After consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EC) No 621/2000 [4], a review of Regulation (EC) No 1950/97 with regard to the company concerned and commenced its investigation.

(5) By the Regulation initiating the review, the Commission also repealed the anti-dumping duty imposed by Regulation (EC) No 1950/97 with regard to imports of the product concerned produced and exported to the Community by the company concerned and directed customs authorities, pursuant to Article 14(5) of the basic Regulation, to take appropriate steps to register such imports.

(6) The Commission's services officially advised the company concerned and the representatives of the exporting country. Furthermore, it gave other parties directly concerned the opportunity to make their views known in writing and to request a hearing. However no such request was received by the Commission.

(7) The Commission's services sent a questionnaire to the company concerned and received a reply within the deadline.

(8) The investigation of dumping covered the period from 1 January 1998 to 31 December 1999 (the 'investigation period').

(9) The same methodology as that used in the original investigation was applied in the current investigation.

C. SCOPE OF THE REVIEW

(10) As no request for a review of the findings on injury was made in this investigation, the review was limited to dumping.

D. RESULTS OF THE INVESTIGATION

1. New exporter qualification

(11) The investigation confirmed that the company concerned had not exported the product concerned during the original period of investigation and that it had begun exporting to the Community after this period.

Furthermore, according to documentary evidence submitted, the company was able to satisfactorily demonstrate that it did not have any links, direct or indirect, with any of the Indian exporting producers subject to the anti-dumping measures in force with regard to the product concerned.

[1] OJ L 56, 6.3.1996, p.1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).
[2] OJ L 276, 9.10.1997, p. 1.
[3] OJ L 11, 16.1.1999, p. 1.
[4] OJ L 75, 24.3.2000, p. 45.

Accordingly, it is confirmed that the company concerned should be considered a new exporter in accordance with Article 11(4) of the basic Regulation, and thus an individual dumping margin should be determined for it.

2. **Dumping**

(12) It should be noted that the exporting producer's sales to the Community consisted of a single shipment. It was found that the quantity involved, i.e. one single container load of 15 tonnes over a period of two years, although sufficient to initiate a 'new exporter' review, did not permit a meaningful assessment of the situation of dumping as regards this exporting producer. Indeed, one shipment cannot normally be considered to represent ordinary export trading activities of a producer of sacks and bags. In fact it was established that the average quantity exported by the Indian companies involved in the original case was about 575 tonnes over a period of one year.

(13) Moreover, the company concerned was not able to supply a satisfactory questionnaire reply with regard to both domestic sales prices and the adjustments claimed to the normal value and export price.

(14) None the less, given that the information provided demonstrated that the company concerned was indeed a 'new exporter' within the meaning of the basic Regulation, it was concluded that the weighted average duty of the Indian companies investigated during the original anti-dumping investigation, i.e. 10,5 %, would constitute the most appropriate anti-dumping duty for the company concerned. The same approach had already been taken in Regulation (EC) No 1950/97 with respect to three other Indian companies which did not export the product concerned to the Community during the original investigation period, but which started exporting after this period.

E. **AMENDMENT OF THE MEASURES BEING REVIEWED**

(15) Based on the findings made during the investigation, it is considered that imports into the Community of sacks and bags produced and exported by Subham Polymers Ltd should be subject to an anti-dumping duty corresponding to the weighted average duty rate of the Indian companies investigated during the original anti-dumping investigation. It is therefore proposed that Regulation (EC) No 1950/97 be amended accordingly.

F. **RETROACTIVE LEVYING OF THE ANTI-DUMPING DUTY**

(16) As the review has resulted in a determination of dumping in respect of Subham Polymers Ltd, the anti-dumping duty applicable to this company shall also be levied retroactively from the date of initiation of this review on imports which have been made subject to registration pursuant to Article 3 of Regulation (EC) No 621/2000.

G. **DISCLOSURE AND DURATION OF THE MEASURES**

(17) The company concerned was informed of the facts and considerations on the basis of which it was intended to impose a definitive anti-dumping duty on its imports into the Community. The company objected to the proposed course of action, but did not put forward any new arguments.

(18) This review does not affect the date on which Regulation (EC) No 1950/97 will expire pursuant to Article 11(2) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. Article 1(2)(a) of Regulation (EC) No 1950/97 is hereby amended by adding the following to the section headed 'India':

	Rate of duty (%)	*TARIC additional code*
'Subham Polymers Ltd	10,5	8424'

2. The duty hereby imposed shall also be levied retroactively on imports of the product concerned which have been registered pursuant to Article 3 of Regulation (EC) No 621/2000.

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

Article 2

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

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

Done at Brussels, 14 December 2000.

For the Council

The President

D. GILLOT

II

(Acts whose publication is not obligatory)

EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS

EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS DECISION

of 11 February 2000

establishing a code of good administrative behaviour

(2000/791/EC)

THE EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS,

Having regard to Council Regulation (EEC) No 1365/75 of 26 May 1975 on the creation of a European Foundation for the Improvement of Living and Working Conditions and amending Regulation (EEC) No 1947/93,

Having regard to Council Regulation (EEC) No 1860/76 of 29 June 1976 laying down the Conditions of Employment of Staff of the European Foundation for the Improvement of Living and Working Conditions and amending Regulations (EEC) No 680/87, (EEC) No 1238/80 and (EEC) No 510/82,

Having regard to the provisions on openness in the Amsterdam Treaty, and in particular Article 1 of the Treaty on European Union and Article 21 of the European Community Treaty,

Having regard to the report of the Committee on Petitions of the European Parliament on its own activities in 1996 to 1997 [1], in calling for a code of good administrative behaviour,

Having regard to the Resolution of the European Parliament of 16 July 1998 on the Annual Report on the activities of the European Ombudsman in 1997 (C4-0270/98) [2],

Having regard to the own initiative inquiry of the European Ombudsman into the existence and the public accessibility, in the different Community institutions and bodies, of a code of good administrative behaviour for officials in their relations with the public,

Having regard to the Resolution of the European Parliament of 15 April 1999 on the Annual Report on the activities of the European Ombudsman in 1998 (C4-0138/99),

Having regard to the existing Code of conduct concerning public access to Foundation documents, contained in the Decision of the Administrative Board dated 21 November 1997 [3],

Whereas the Amsterdam Treaty has explicitly introduced the concept of openness into the Treaty on European Union, by stating that it marks a new stage in the process of creating an ever closer union in which decisions are taken as openly as possible and as closely as possible to the citizen,

Whereas, in order to bring the administration closer to the citizen and to guarantee a better quality of administration, a code should be adopted which contains the basic principles of good administrative behaviour for officials when dealing with the public,

Whereas such a code is useful for both staff members, as it will inform them in a detailed manner of the rules they have to follow when dealing with the public, and the citizen, as it will provide her/him with information on the standard of conduct they are entitled to expect in dealings with the Community administrations,

Whereas such a code can only be efficient if it is a publicly accessible document for the citizen, and thus published in the form of a decision like the abovementioned Decision on public access to Foundation documents,

[1] A4 — 0190/97.
[2] OJ C 292, 21.9.1998, p. 168.
[3] OJ L 296, 17.11.1999, p. 25.

Whereas, in its Resolutions C4-0270/98 and C4-0138/99, the Parliament welcomed the initiative for a code of good administrative behaviour for the European institutions and bodies, and stressed the urgent need to draw up such a code as soon as possible,

Whereas the Parliament equally stressed the importance for such a code to be as identical as possible for all European institutions and bodies, to be accessible to all European citizens, and to be published in the *Official Journal of the European Communities*,

Considering it therefore desirable to establish a Code governing the principles of good administrative behaviour which staff members should respect in their relations with the public, and to make this code publicly available,

HAS DECIDED AS FOLLOWS:

Article 1

General provision

In their relations with the public, staff of the European Foundation for the Improvement of Living and Working Conditions shall respect the principles which are laid down in this Decision and which constitute the code of good administrative behaviour, hereafter referred to as 'the Code'.

Article 2

Personal scope of application

1. The Code shall apply to all staff members to whom the Staff Regulations apply, in their relations with the public.

2. The Foundation will take the necessary measures to ensure that the provisions set out in this Code also apply to other persons working for it, such as persons employed under private law contracts, experts on secondment from national civil services and trainees.

3. The public refers to natural and legal persons, whether they reside or have their registered office in a Member State or not.

Article 3

Material scope of application

1. This Code contains the general principles of good administrative behaviour which apply to all relations of the Foundation's staff members with the public, unless they are governed by specific provisions.

2. The principles set out in this Code do not apply to the relations between the Foundation and its staff members. Those relations are governed by the Staff Regulations.

Article 4

Lawfulness

The staff member shall act according to law and apply the rules and procedures laid down in Community legislation. The staff member shall in particular take care that decisions which affect the rights or interests of individuals have a basis in law and that their content complies with the law.

Article 5

Absence of discrimination

1. In dealing with requests from the public and in taking decisions, the staff member shall ensure that the principle of equality of treatment is respected. Members of the public shall be treated in a similar manner in relation to a similar issue.

2. If any difference in treatment is made, the staff member shall ensure that it is justified by the objective relevant features of the particular case.

3. The staff member shall in particular avoid any unjustified discrimination between members of the public based on nationality, sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation.

Article 6

Proportionality

1. When taking decisions, the staff member shall ensure that the measures taken are proportional to the aim pursued. The staff member shall in particular avoid restricting the rights of the citizens or imposing charges on them, when those restrictions or charges are not in a reasonable relation with the purpose of the action pursued.

2. When taking decisions, the staff member shall strike a fair balance between the interests of private persons and the general public interest.

Article 7

Absence of abuse of power

Powers shall be exercised solely for the purposes for which they have been conferred by the relevant provisions. The staff member shall in particular avoid using those powers for purposes which have no basis in law or which are not motivated by any public interest.

Article 8

Impartiality and independence

1. The staff member shall be impartial and independent. The staff member shall abstain from any arbitrary action adversely affecting members of the public, as well as from any preferential treatment on any grounds whatsoever.

2. The staff member shall not be guided by any outside influences of whatever kind, including political influences, or by personal interests.

3. The staff member shall abstain from being involved in the taking of a decision on a matter concerning his or her own interests, or those of his or her family, relatives, friends and acquaintances.

Article 9

Objectivity

When taking decisions, the staff member shall take into consideration the relevant factors and give each of them its proper weight in the decision, whilst excluding any irrelevant element from consideration.

Article 10

Legitimate expectations and consistency

1. The staff member shall be consistent in his own administrative behaviour as well as with the administrative action of the Foundation. The staff member shall follow the Foundation's normal administrative practices, unless there are legitimate grounds for departing from those practices in an individual case.

2. The staff member shall respect the legitimate and reasonable expectations that members of the public have in the light of how the Foundation has acted in the past.

Article 11

Fairness

The staff member shall act fairly and reasonably.

Article 12

Courtesy

1. The staff member shall be service-minded, correct, courteous and accessible in relations with the public. When answering correspondence, telephone calls and e-mails, the staff member shall try as much as possible to be helpful and to reply to the questions which are asked.

2. If the staff member is not responsible for the matter concerned, he or she shall direct the citizen to the appropriate staff member.

3. If an error occurs which negatively affects the rights or interests of a member of the public, the staff member shall apologise for it.

Article 13

Reply to letters in the language of the citizen

The staff member shall recognise the right of every citizen of the Union or any member of the public who writes to the Foundation in one of the Treaty languages to receive an answer in the same language.

Article 14

Acknowledgement of receipt and indication of the competent official

1. Every letter or complaint to the Foundation shall receive an acknowledgement of receipt within a period of two weeks, except if a substantive reply can be sent within that period.

2. The reply or acknowledgement of receipt shall indicate the name and the telephone number of the staff member who is dealing with the matter, as well as the service to which he or she belongs.

3. No acknowledgement of receipt and no reply need be sent in cases where letters or complaints are abusive because of their excessive number or because of their repetitive or pointless character.

Article 15

Obligation to transfer to the competent service of the Foundation

1. If a letter or a complaint to the Foundation is addressed or transmitted to a service which has no competence to deal with it, its service shall ensure that the file is transferred without delay to the competent service of the Foundation.

2. The service which originally received the letter or complaint shall notify the author of this transfer and shall indicate the name and the telephone number of the staff member to whom the file has been passed.

Article 16

Right to be heard and to make statements

1. In cases where the rights or interests of individuals are involved, the staff member shall ensure that, at every stage in the decision-making procedure, the rights of defence are respected.

2. Every member of the public shall have the right, in cases where a decision affecting his or her rights or interests has to be taken, to submit written comments and, when needed, to present oral observations before the decision is taken.

Article 17

Reasonable time limit for taking decisions

1. The staff member shall ensure that a decision on every request or complaint to the Foundation is taken within a reasonable time limit, without delay, and in any case no later than two months from the date of receipt. The same rule shall apply for answering letters from members of the public.

2. If a request or a complaint to the Foundation cannot, because of the complexity of the matters which it raises, be decided upon within the abovementioned time limit, the staff member shall inform the author thereof as soon as possible. In that case, a definitive decision will be notified to the author in the shortest time.

Article 18

Duty to state the grounds of decisions

1. Every decision of the Foundation which may adversely affect the rights or interests of a private person shall state the grounds on which it is based by indicating clearly the relevant facts and the legal basis of the decision.

2. The staff member shall avoid making decisions which are based on brief or vague grounds or which do not contain individual reasoning.

3. If it is not possible, because of the large number of persons concerned by similar decisions, to communicate in detail the grounds of the decision and where standard replies are therefore made, the staff member shall guarantee that he or she subsequently provides the citizen who expressly requests it with an individual reasoning.

Article 19

Indication of the possibilities of appeal

1. A decision of the Foundation which may adversely affect the rights or interests of a private person shall contain an indication of the appeal possibilities available for challenging the decision. It shall in particular indicate the nature of the remedies, the bodies before which they can be exercised, as well as the timelimits for exercising them.

2. Decisions shall in particular refer to the possibility of judicial proceedings and complaints to the Ombudsman under the conditions specified in, respectively, Articles 230 and 195 of the Treaty establishing the European Community.

Article 20

Notification of the decision

1. The staff member shall ensure that decisions which affect the rights or interests of individual persons are notified in writing, as soon as the decision has been taken, to the person or persons concerned.

2. The staff member shall abstain from communicating the decision to other sources until the persons or person concerned have been informed.

Article 21

Data protection

1. The staff member who deals with personal data concerning a citizen shall respect the principles laid down in Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and the free movement of such data.

2. The staff member shall in particular avoid processing personal data for non-legitimate purposes or the transmission of such data to non-authorised persons.

Article 22

Requests for information

1. The staff member shall, when he or she has responsibility for the matter concerned, provide members of the public with the information that they request. The staff member shall take care that the information communicated is clear and understandable.

2. If an oral request for information is too complicated or too comprehensive to be dealt with, the staff member shall advise the person concerned to formulate his or her demand in writing.

3. If, because of its confidentiality, an official may not disclose the information requested, he or she shall, in accordance with Article 18 of this Code, indicate to the person concerned the reasons why he cannot communicate the information.

4. Further to requests for information on matters for which he has no responsibility, the staff member shall direct the enquirer to the competent person and indicate his or her name and telephone number. Further to requests for information concerning another Community institution or body, the staff member shall direct the enquirer to that institution or body.

5. Where appropriate, the staff member shall, depending on the subject of the request, direct the person seeking information to the service of the Foundation responsible for providing information to the public.

Article 23

Requests for public access to documents

1. Further to requests for access to documents of the Foundation, the staff member shall give access to these documents in accordance with the Decision of the Foundation concerning public access to Foundation documents [1].

2. If the staff member cannot comply with an oral request for access to documents, the citizen shall be advised to formulate it in writing.

Article 24

Keeping of adequate records

The Foundation's departments shall keep adequate records of their incoming and outgoing mail, of the documents they receive, and of the measures they take.

Article 25

Public access to the Code

1. The Foundation will take the necessary measures in order to ensure that this Code enjoys the widest possible publicity amongst the citizens.

2. The Foundation will provide a copy of this Code to any citizen who requests it.

[1] OJ L 296, 17.11.1999, p.25.

Article 26

Right to complain to the European Ombudsman

Any failure of a staff member to comply with the principles set out in this Code may be the subject of a complaint to the European Ombudsman in accordance with Article 195 of the Treaty establishing the European Community and the Statute of the European Ombudsman ([1]).

Article 27

Revision

This Decision shall be reviewed after two years of operation. In 2002, the Director of the Foundation shall submit a report to the Administrative Board on the implementation of this Decision for the period 12 February 2000 to 11 February 2002, in preparation for that review.

Article 28

Entry into force

This Decision will take effect from 12 February 2000. It will be published in the *Official Journal of the European Communities*.

Done at Brussels, 11 February 2000.

For the Bureau

Marc BOSNIEL

Vice President

([1]) Decision 94/262/ECSC, EC, Euratom of the European Parliament of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties (OJ L 113, 4.5.1994, p. 15).