

English edition

## Legislation

### Contents

#### I Acts whose publication is obligatory

- Commission Regulation (EC) No 356/2002 of 26 February 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables ..... 1
- ★ **Commission Regulation (EC) No 357/2002 of 26 February 2002 on the issuing of import licences for sugar and mixtures of sugar and cocoa qualifying as ACP/OCT and EC/OCT originating products** ..... 3
- ★ **Commission Regulation (EC) No 358/2002 of 26 February 2002 imposing a provisional anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia and accepting an undertaking offered by an exporting producer in Slovakia** ..... 4

#### II Acts whose publication is not obligatory

##### Council

2002/168/EC:

- ★ **Decision No 2/2001 of the ACP-EC Council of Ministers of 20 December 2001 on settling all ACP HIPC LDCs' 'special loans' remaining after full application of HIPC debt alleviation mechanisms** ..... 19

2002/169/EC:

- ★ **Decision No 3/2001 of the ACP-EC Council of Ministers of 20 December 2001 on the allocation of resources to Somalia from the Eighth and Ninth European Development Fund** ..... 23

2002/170/EC:

- ★ **Decision No 1/2002 of the EC-Former Yugoslav Republic of Macedonia Cooperation Council of 30 January 2002 on the introduction of two Joint Declarations concerning the Principality of Andorra and the Republic of San Marino and on amendments to Protocol 4 on the definition of the concept of originating products and methods of administrative cooperation** ..... 24

**Commission**

2002/171/ECSC:

- ★ **Commission Decision of 2 October 2001 on German aid to the coal industry for the period from 1 January 2002 to 23 July 2002 <sup>(1)</sup> (notified under document number C(2001) 3005)** ..... 27

2002/172/EC:

- ★ **Commission Decision of 25 February 2002 prolonging the period of validity of Decision 1999/476/EC establishing the ecological criteria for the award of the Community eco-label to laundry detergents <sup>(1)</sup> (notified under document number C(2002) 462)** ..... 32

2002/173/EC:

- ★ **Commission Decision of 25 February 2002 prolonging the period of validity of Decision 1999/427/EC establishing the ecological criteria for the award of the Community eco-label to detergents for dishwashers <sup>(1)</sup> (notified under document number C(2002) 463)** ..... 33

---

<sup>(1)</sup> Text with EEA relevance

## I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 356/2002**  
**of 26 February 2002**  
**establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables <sup>(1)</sup>, as last amended by Regulation (EC) No 1498/98 <sup>(2)</sup>, 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 27 February 2002.

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

Done at Brussels, 26 February 2002.

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

---

<sup>(1)</sup> OJ L 337, 24.12.1994, p. 66.

<sup>(2)</sup> OJ L 198, 15.7.1998, p. 4.

## ANNEX

**to the Commission Regulation of 26 February 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	052	144,8
	204	146,9
	212	143,5
	624	212,2
	999	161,9
0707 00 05	052	185,6
	068	130,1
	624	237,7
	628	171,8
0709 10 00	999	181,3
	220	223,0
0709 90 70	999	223,0
	052	161,6
0805 10 10, 0805 10 30, 0805 10 50	204	80,9
	999	121,3
	052	47,3
	204	49,3
	212	51,9
	220	49,9
	421	29,6
	508	22,3
0805 20 10	600	59,5
	624	77,9
	999	48,5
	204	91,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	999	91,0
	052	58,9
	204	77,2
	464	114,9
	600	108,5
	624	85,0
	662	33,9
	999	79,7
0805 50 10	052	54,3
	600	51,2
	999	52,8
0808 10 20, 0808 10 50, 0808 10 90	060	41,6
	388	126,2
	400	115,3
	404	92,1
	508	102,0
	528	97,4
	720	112,1
	728	127,1
	999	101,7
	0808 20 50	388
400		103,4
512		66,5
528		72,1
720		116,7
999		92,8

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 357/2002**  
**of 26 February 2002**  
**on the issuing of import licences for sugar and mixtures of sugar and cocoa qualifying as ACP/OCT**  
**and EC/OCT originating products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community (Overseas Association Decision) <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 192/2002 of 31 January 2002 laying down detailed rules for issuing import licences for sugar and sugar and cocoa mixtures with ACP/OCT or EC/OCT cumulation of origin <sup>(2)</sup>, and in particular Article 6(3) thereof,

Whereas:

- (1) Article 6(4) of Annex III to Decision 2002/822/EC allows ACP/EC-OCT cumulation of origin in the case of products falling within Chapter 17 and CN codes 1806 10 30 and 1806 10 90 up to an annual quantity of 28 000 tonnes of sugar.
- (2) Applications have been submitted to the national authorities in accordance with Regulation (EC) No 192/2002 for the issuing of import licences for a total quantity exceeding that allowed under Decision 2001/822/EC.

(3) Article 6(3) of Regulation (EC) No 192/2002 provides that, where licence applications cover an annual quantity in excess of 28 000 tonnes, the Commission is to adopt a regulation fixing a single reducing coefficient to be applied to each application submitted and suspend the submission of further applications for the year in progress.

(4) The Commission must therefore fix the reducing coefficient for the issuing of import licences and suspend the submission of further licence applications for 2002,

HAS ADOPTED THIS REGULATION:

*Article 1*

Import licences covered by applications submitted by 14 February 2002 pursuant to Article 6 of Regulation (EC) No 192/2002 for 45 000 tonnes shall be issued for 62,22222 % of the quantity applied for.

*Article 2*

The submission of further applications for 2002 is hereby suspended.

*Article 3*

This Regulation shall enter into force on 27 February 2002.

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

Done at Brussels, 26 February 2002.

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

<sup>(1)</sup> OJ L 314, 30.11.2001, p. 1.

<sup>(2)</sup> OJ L 31, 1.2.2002, p. 55.

## COMMISSION REGULATION (EC) No 358/2002

of 26 February 2002

**imposing a provisional anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia and accepting an undertaking offered by an exporting producer in Slovakia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

**2. Present investigation**

Having regard to the Treaty establishing the European Community,

*Initiation*

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup>, as last amended by Regulation (EC) No 2238/2000 <sup>(2)</sup>, and in particular Article 7 thereof,

- (3) On 17 April 2001 a complaint was lodged by the Defence Committee of EU Steel Butt-welding Fittings Industry ('the complainant'), on behalf of producers representing a major proportion of certain tube and pipe fittings. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

After consulting the Advisory Committee,

- (4) Consequently, on 1 June 2001, the Commission announced by a notice ('notice of initiation') published in the *Official Journal of the European Communities* <sup>(9)</sup> the initiation of an anti-dumping proceeding with regard to imports into the Community of certain tube and pipe fittings, of iron or steel originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia ('the countries concerned').

Whereas:

**A. PROCEDURE***Investigation***1. Proceedings concerning other countries**

- (1) By Regulation (EC) No 584/96 <sup>(3)</sup>, as amended by Regulation (EC) No 1592/2000 <sup>(4)</sup>, the Council imposed a definitive anti-dumping duty on imports of certain tube or pipe-fittings, of iron or steel, originating in the People's Republic of China ('China'), Croatia and Thailand. The measures applying to these imports consisted of a specific duty, except for three Thai exporting producers from which undertakings were accepted by Commission Decision 96/252/EC <sup>(5)</sup>. In July 2000, the anti-dumping measure applicable to the imports of one of these three companies was repealed, following an interim review requested by this company, pursuant to Article 11(3) Regulation (EC) No 384/96 (the 'basic Regulation') and which showed the absence of dumping <sup>(6)</sup>.
- (2) Following the publication, in September 2000, of a notice <sup>(7)</sup> of the impending expiry of the anti-dumping measures in force, the Commission received a request for an expiry review lodged by the Defence Committee of EU Steel Butt-welding Fittings Industry, on behalf of producers representing a major proportion of the total Community production of certain tube or pipe-fittings of iron or steel. An examination relating to these measures was initiated in April 2001 <sup>(8)</sup>.

- (5) The Commission officially advised the exporting producers, importers/traders, users and associations of users known to be concerned, as well as the representatives of the exporting countries concerned and the Community producers of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.
- (6) The Commission sent questionnaires to the Community producers, all exporters/producers, all importers/traders as well as all users known to be concerned as well as to all parties which made themselves known within the deadline set out in the notice of initiation. Replies to these questionnaires were received from four Community producers and six exporting producers, as well as from nine importers, two user organisations and seven users.
- (7) The Commission sought and verified all the information deemed necessary for the purpose of a provisional determination of dumping, injury, causation and Community interest. Verification visits were carried out at the premises of the following companies:

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1.

<sup>(2)</sup> OJ L 257, 11.10.2000, p. 2.

<sup>(3)</sup> OJ L 84, 3.4.1996, p. 1.

<sup>(4)</sup> OJ L 182, 21.7.2000, p. 1.

<sup>(5)</sup> OJ L 84, 3.4.1996, p. 46.

<sup>(6)</sup> Commission Decision 2000/453/EC (OJ L 182, 21.7.2000, p. 25).

<sup>(7)</sup> OJ C 271, 22.9.2000, p. 4.

<sup>(8)</sup> OJ L 103, 3.4.2001, p. 5.

<sup>(9)</sup> OJ C 159, 1.6.2001, p. 4.

- Community producers
  - Erne Fittings GmbH & Co, Schlins, Austria
  - Interfit, Maubeuge, France
  - Siekmann Fittings GmbH & Co. KG, Lohne, Germany
  - Virgilio CENA & Figli SpA, Brescia, Italy
- Exporting producers
  - Czech Republic
    - Mavet a.s./Bovex s.r.o., Trebic
  - Malaysia
    - Anggerik Laksana SDN BHD, Kepong, Selangor Darul Ehsan
    - Wing Tiek Ductile Pipe SDN BHD, Petaling Jaya
  - Slovakia
    - Bohus s.r.o., Hronec
    - Zeleziarne Podbrezova a.s., Podbrezova
- Importer related to Zeleziarne Podbrezova
  - Pipex Italia, Milano, Italy
- Unrelated importers in the Community
  - IN.RA.BO, Bologna, Italy
  - I.R.C. SpA, Cortemaggiore, Italy
  - Van Leeuwen, Vilvoorde, Belgium.

- (8) The investigation of dumping and injury covered the period from 1 April 2000 to 31 March 2001 ('investigation period' or 'IP'). As for the trends relevant for the assessment of injury, the Commission analysed the period from 1996 to the end of the investigation period ('period under examination').

### 3. Product concerned and like product

#### *Product concerned*

- (9) The product under examination ('product concerned') is certain tube and pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, currently classifiable within CN codes ex 7307 93 11 (TARIC code 7307 93 11 91), ex 7307 93 19 (TARIC code 7307 93 19 91), ex 7307 99 30 (TARIC code 7307 99 30 92) and ex 7307 99 90 (TARIC code 7307 99 90 92). The product is commonly known as tube and pipe fittings ('TPFs').
- (10) TPFs are manufactured essentially by cutting and forming tubes and pipes. TPFs are used to join tubes and pipes and come in different shapes: elbows, reducers, tees and caps, as well as different sizes and material grades. They are used mainly in the petro-chemical

industry, construction, energy generation, shipbuilding and industrial installations. When sold for use in the petrochemical industry, the global standard used is the ANSI standard. For other purposes the most common standard used in the Community is the DIN standard.

- (11) All TPFs have the same basic physical and technical characteristics, with only the final stage of production determining the shape which is produced. Also, it was found that the shape of the TPF does not determine the use to which it is put. Therefore, they are to be regarded for the purposes of this investigation as a single product.

#### *Like product*

- (12) The investigation has shown that the TPFs produced in the countries concerned, sold domestically and/or exported to the Community, have the same basic physical, technical and chemical characteristics as the products sold in the Community by the complaining Community producers and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

## B. DUMPING

- (13) Four countries subject to the present proceeding are market economy countries, i.e. the Czech Republic, Malaysia, the Republic of Korea and Slovakia. With regard to Russia normal value will be established in the same way as in market economy countries provided that the conditions set out in Article 2(7)(b)(c) of the basic Regulation are met. Alternatively, the provisions of Article 2(7)(a) will be applied.

### MARKET ECONOMY COUNTRIES

#### 1. General methodology

- (14) The general methodology set out hereinafter has been applied to imports from all exporting market economy countries concerned. The presentation of the findings on dumping for imports from each of the countries concerned therefore only describes what is specific for each exporting country.

#### *Normal value*

- (15) As far as the determination of normal value is concerned, the Commission first established, for each exporting producer, whether its total domestic sales of TPFs were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume of each exporting producer was at least 5 % of its total export sales volume to the Community.

- (16) The Commission subsequently identified those types of TPFs, sold domestically by the companies having representative domestic sales, that were identical or directly comparable with the types sold for export to the Community.
- (17) For each type sold by the exporting producers on their domestic markets and found to be directly comparable to the type sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type of TPF were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type of TPF exported to the Community.
- (18) An examination was also made as to whether the domestic sales of each type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the type in question. In cases where the sales volume of TPFs, sold at a net sales price equal to or above the calculated cost of production, represented 80 % or more of the total sales volume and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales made during the IP, irrespective of whether these sales were profitable or not. In cases where the weighted average price was below the cost of production or where the volume of profitable sales of TPFs represented less than 80 % but 10 % or more of the total sales volume, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales only.
- (19) In cases where the volume of profitable sales of any type of TPF represented less than 10 % of the total sales volume, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.
- (20) Wherever domestic prices of a particular type sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. In this regard, the Commission used the prices of the product concerned charged on the domestic market by another producer. In all cases where this was not possible, and in the absence of any other reasonable method, constructed normal value was used.
- (21) In all cases where constructed normal value was used and in accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the manufacturing costs of the exported types, adjusted where necessary, a reasonable percentage for selling, general and administrative expenses ('SG & A') and a reasonable margin of profit. To this end, the Commission examined whether the SG & A incurred and the profit realised by each of the producing exporters concerned on the domestic market constituted reliable data. Actual domestic SG & A expenses were considered reliable where the domestic sales volume of the company concerned could be regarded as representative. The domestic profit margin was determined on the basis of domestic sales made in the ordinary course of trade.
- Export price*
- (22) In all cases where TPFs were exported to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.
- (23) Where the export sale was made via a related importer, the export price was constructed pursuant to Article 2(9) of the basic Regulation, namely on the basis of the price at which the imported products were first resold to an independent buyer. In such cases, adjustments were made for all costs incurred between importation and resale and for profits accruing, in order to establish a reliable export price. As far as the profit margin is concerned, the latter was provisionally established on the basis of the information available from cooperating unrelated importers.
- Comparison*
- (24) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences which were claimed and demonstrated to affect price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments were granted in all cases where they were found to be justified, accurate and supported by verified evidence.
- Dumping margin for the companies investigated*
- (25) According to Article 2(11) of the basic Regulation, for each cooperating exporting producer the weighted average normal value by type was compared with the weighted average export price.
- Residual dumping margin*
- (26) For non-cooperating companies, a 'residual' dumping margin was determined in accordance with Article 18 of the basic Regulation, on the basis of the facts available.



(27) For those countries where there was no reason to believe that any exporting producer abstained from cooperating, it was decided to set the residual dumping margin at the level of the cooperating company with the highest dumping margin in order to ensure the effectiveness of any measures.

(28) For those countries where the level of cooperation was low, the residual dumping margin was determined on the basis of the highest dumped export sales to the Community of representative quantities. This approach was also considered necessary in order to avoid giving a bonus for non-cooperation and in view of the fact that there were no indications that a non-cooperating party had dumped at a lower level.

In order to determine in this case for each country concerned whether or not there was any abstention from cooperation, total import volumes reported by cooperating exporting producers were compared with the information provided by Eurostat for the country in question.

## 2. Czech Republic

(29) Two exporting producers replied to the questionnaire. These replies included data on products made by two companies in the same factory during different parts of the IP since the operational management of this factory was transferred from Mavet to Bovex on 1 January 2001. Therefore, two different calculations were made to arrive at individual dumping margins for both companies.

### Normal value

(30) Normal value was established as described in recitals 15 to 21, i.e. on the basis of the prices paid or payable, in the ordinary course of trade, by independent customers on the domestic market in accordance with Article 2(1) of the basic Regulation and constructed in accordance with Article 2(3) of the basic Regulation for the type of the product concerned sold to the Community.

### Export price

(31) The export sales were made directly to independent customers in the Community and were therefore established pursuant to Article 2(8) of the basic Regulation.

### Comparison

(32) Adjustments were made for discounts, transport and credit costs.

### Dumping margin

(33) The comparison between the normal value and the export price showed the existence of dumping in respect of the cooperating exporting producers. The provisional dumping margins expressed as a percentage of the cif import price at the Community border are:

Mavet a.s.: 17,6 %

Bovex s.r.o.: 22,4 %.

(34) It was found that the level of cooperation for the Czech Republic was high and the residual provisional dumping margin was set at the same level as for the cooperating company with the highest dumping margin, i.e. 22,4 %.

## 3. Malaysia

(35) Both known exporting producers replied to the questionnaire. However, one of these exporting producers refused to provide the necessary information. In particular, the company claimed that it was unable to provide transaction-by-transaction listings of its domestic and export sales and it also refused to provide copies of invoices to the Commission. The company was warned about the consequences of such non-cooperation, but did not change its position. It was therefore decided to apply Article 18 of the basic Regulation and to base findings on the facts available for this company. Since no company-specific data could be used, it was decided to give the residual duty to this company.

### Normal value

(36) Normal value was established as described in recitals 15 to 21, i.e. on the basis of the prices paid or payable, in the ordinary course of trade, by independent customers on the domestic market in accordance with Article 2(1) of the basic Regulation and constructed in accordance with Article 2(3) of the basic Regulation for the type of the product concerned sold to the Community.

### Export price

(37) The export sales were made directly to independent customers in the Community and were therefore established pursuant to Article 2(8) of the basic Regulation.

### Comparison

(38) Adjustments were made for discounts, transport, handling and credit costs.

- (39) The company concerned claimed an adjustment for level of trade on the basis of the fact that on the domestic market sales to end-users had consistently higher prices than sales to retailers and that it carried out consistently different functions with regard to sales to these two different sales channels. Since it was found that this claim was justified the adjustment was granted.

*Dumping margin*

- (40) The comparison between the normal value and the export price showed the existence of dumping in respect of the cooperating exporting producer. The provisional dumping margin expressed as a percentage of the cif import price at the Community border is:

Anggerik Laksana Sdn Bhd: 59,2 %.

- (41) It was found that the level of cooperation for Malaysia was very low and the residual provisional dumping margin was therefore set at the level of the highest dumped product type which was found to be representative, i.e. 75,0 %.

**4. Republic of Korea**

- (42) No Korean exporting producer replied to the questionnaire. It was therefore necessary to apply Article 18 of the basic Regulation and to base findings on the facts available. With respect to the normal value, the most reliable information available was the information contained in the complaint since it was a constructed value based on the cost of tubes, increased by a not unreasonable estimate of the manufacturing costs. As regards the export price, given that TPFs are registered as an ex code in Eurostat, which makes the information less precise, and given the quality of the information provided in the complaint, which was based on a price offer, it was considered that the complaint constituted the more reliable information available. Both the normal value and the export price were thus determined on the basis of the complaint since it was considered that it constituted the most reasonable basis.

- (43) The comparison between the normal value and the export price showed the existence of dumping. The provisional dumping margin expressed as a percentage of the cif import price at the Community border is:

Republic of Korea: 83,9 %.

**5. Slovakia**

- (44) Both known exporting producers replied to the questionnaire. One importer in the Community related to one of the exporting producers replied to the annex to the questionnaire intended for related companies. The same exporting producer also exported some products manufactured in the Czech Republic to the Community

during the IP. These products were excluded from the dumping calculation for Slovakia.

*Normal value*

- (45) Normal value was established as described in recitals 15 to 21, i.e. on the basis of the prices paid or payable, in the ordinary course of trade, by independent customers on the domestic market in accordance with Article 2(1) of the basic Regulation and constructed in accordance with Article 2(3) of the basic Regulation for the type of the product concerned sold to the Community.

*Export price*

- (46) Export sales made directly to independent customers in the Community were established pursuant to Article 2(8) of the basic Regulation, whereas export prices for sales via the related importer of one of the exporting producers were constructed according to Article 2(9) of the

*Comparison*

- (47) Adjustments were made for discounts, transport, credit costs and commissions.

- (48) One company claimed an adjustment for physical characteristics, notably for the extra blasting and passivating which is required on the domestic market. However, the company was not able to provide any evidence for the amount of the requested adjustment nor of the market value of the difference. Therefore, the claim had to be rejected.

- (49) The same company also requested an adjustment for packing on the basis of the fact that on the domestic market the pallets used are often not full, as opposed to those going to export markets. However, since the company was not able to provide any evidence for the amount of the requested adjustment and since no effect on the price was demonstrated, this adjustment also had to be rejected.

*Dumping margin*

- (50) The comparison between the normal value and the export price showed the existence of dumping in respect of the cooperating exporting producers. The provisional dumping margins expressed as a percentage of the cif import price at the Community border are:

Bohus s.r.o.: 7,7 %

Zeleziarne Podbrezova a.s.: 15,0 %.

- (51) It was found that the level of cooperation for Slovakia was high and the residual provisional dumping margin was set at the same level as for the cooperating company with the highest dumping margin, i.e. 15,0 %.

## RUSSIA

weighted average of the normal values established for the cooperating Slovak exporting producers.

*Market economy status*

- (52) No Russian exporting producer requested market economy status ('MES') pursuant to Article 2(7)(b) of the basic Regulation. Therefore, the provisions of Article 2(7)(a) had to be applied.

*Export price*

- (58) Since no Russian exporting producer replied to the questionnaire and in the absence of any other reasonable basis, the export price for Russia was established on the basis of the complaint. The information in the complaint was based on Eurostat.

*Analogue country*

- (53) According to Article 2(7) of the basic Regulation, for non-market economy countries and for companies in such countries to which MES pursuant to Article 2(7)(b) of the basic Regulation could not be granted, normal value has to be established on the basis of the price or constructed value in a market economy third country ('analogue country').

*Comparison*

- (59) For the purpose of a fair comparison, adjustments were made for differences in transport and insurance costs, which were found to affect prices and price comparability.

- (54) In the notice of initiation, the Commission indicated its intention to use the Czech Republic or Slovakia as an appropriate analogue country for the purpose of establishing normal value for Russia. No interested party commented on this proposed choice of analogue country.

*Dumping margin*

- (60) In accordance with Article 2(11) of the basic Regulation, the weighted average normal value was compared with the weighted average export price on an ex-works basis. This comparison showed the existence of dumping. The countrywide single weighted average provisional dumping margin expressed as a percentage of the cif value is 43,3 %.

- (55) The investigation showed that in Slovakia prices were governed by market forces, two producers competed on the domestic market and both cooperated, there were significant imports from third countries and there were indications that the production technology and process were, to a large extent, similar in Slovakia and Russia. Moreover, the domestic sales volume was significant as compared to Russian export sales of the product concerned to the Community.

- (56) In view of the above, it was concluded that Slovakia was the most appropriate analogue country and that under these circumstances the selection of Slovakia seemed to be an appropriate and not unreasonable choice of analogue country for establishing normal value in respect of Russia for the product concerned, in accordance with Article 2(7) of the basic Regulation.

*Normal value*

- (57) No Russian exporting producer replied to the questionnaire. Therefore, in order to calculate the provisional dumping margin, the Commission had to make use of the facts available in accordance with Article 18 of the basic Regulation. In the circumstances of this case, i.e. no information on the product mix of Russian exports, and pursuant to Article 2(7)(a) of the basic Regulation, normal value was determined on the basis of the

**C. INJURY****1. Definition of the Community industry**

- (61) The four Community producers which replied to the questionnaire represented around 60 % of the Community production. It should be noted that three other producers, representing around 10 % of the Community production, did not fully reply to the questionnaire within the granted deadline even though they supported the investigation.

- (62) During the IP, two of the above four complainant Community producers imported the product concerned, and one of these imported from the countries concerned. Imports of the product concerned by these two complainants represented 2,5 % and 10 % respectively of their total sales volume in the Community. However, despite these re-sales of imported TPFs, the primary activity of each of these companies remained in the Community. Furthermore, for both of these companies the imports completed their product range. Consequently, the trading activities of these producers did not affect their status as Community producers. These four Community producers are therefore deemed to constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.

## 2. Community consumption

- (63) It should be noted that, according to the complaint, part of the EU producers' domestic sales are made to stockists (which did not cooperate), that in turn export significant quantities of the products outside the Community. The apparent Community consumption was therefore established on the basis of the production volume of the Community industry and of the other Community producers (on the basis of the information contained in the complaint), and on the import and export volume based on Eurostat data.
- (64) On this basis, Community consumption first increased from around 57 000 tonnes in 1996 to around 65 000 tonnes in 1998, but subsequently dropped to around 51 000 tonnes in the IP.

## 3. Imports from the countries concerned

### *Cumulative assessment of the effects of the imports concerned*

- (65) The Commission considered whether imports from the countries concerned should be assessed cumulatively on the basis of the criteria set out in Articles 3(4) of the basic Regulation.
- (66) The dumping margins found regarding imports from all countries concerned are more than *de minimis*, the volumes of imports are not negligible and the cumulative assessment was considered appropriate in view of the conditions of competition both between the imports and between the imports and the like Community product. This is evidenced by the fact that all imports volumes were substantial and their market shares have increased between 1996 and the IP, that the TPFs sold were alike and distributed via the same trade channels and that they all undercut the Community industry's prices and lead to a price depression of the Community industry's TPFs. Price trends for individual countries on average were not considered meaningful in this context, as they are likely to be influenced by changes in the product mix.

- (67) Therefore, it is provisionally concluded that dumped imports originating in the countries concerned should be assessed cumulatively.

### *Volume and market share of the imports concerned*

- (68) Imports of TPFs from the countries concerned into the Community increased in volume from 1 157 tonnes in 1996 to 6 242 tonnes in the IP. The corresponding market share increased from 2,0 % in 1996 to 12,3 % in the IP.

### *Prices of dumped imports*

- (69) Although price trends for individual countries on average were influenced by changes in the product mix, an average weighted average price of imports originating in the countries concerned was calculated. It increased from EUR 1 378/tonne in 1996 to EUR 1 408/tonne in the IP. It should however be noted that, during the period under examination, the average price firstly increased and reached the level of EUR 1 628/tonne in 1997, an increase of 18 %. Thereafter, it decreased by around 15 %, between 1997 and the IP, when the Community consumption also followed a downward trend.

### *Undercutting*

- (70) The Commission has examined whether the exporting producers of the countries concerned undercut the prices of the Community industry during the IP. For the purposes of this analysis, the cif prices of the exporting producers have been adjusted to a Community frontier, duty paid level. These prices have then been compared, at the level of appropriate groups of product types, to Community producers' ex-works prices.
- (71) The undercutting margins found on this basis, by country, either based on cooperating exporting producers, where available, or Eurostat figures, expressed as a percentage of the Community producers' prices, are as follows:

Country	Price undercutting
Czech Republic	Between 16 % and 18 %
Malaysia	Between 40 % and 60 %
Russia	24 %
Republic of Korea	21 %
Slovakia	Between 2 % and 40 %

It should also be noted that there was also price depression since the Community industry was loss-making during the IP.

## 4. Situation of the Community industry

### *Preliminary remark*

- (72) A number of economic indicators of the Community industry presented below show a positive development for the years 1996 to 1998, subsequently followed by a deterioration thereafter. A closer analysis shows that all indicators except investment and prices improved between 1996 and 1998, i.e. following the imposition of measures against China and Thailand in 1996. This changed as from 1998 to the IP, when crucial indicators clearly deteriorated, although some others remained relatively stable.

*Production*

- (73) The Community industry's production first increased by around 10 % between 1996 and 1998, from around 42 500 tonnes to around 46 500 tonnes, then dropped back to the 1996 level, but in the IP it went up again to the level reached in 1998.

*Capacity and capacity utilisation rates*

The total production capacity of the Community industry was relatively stable over the period under examination and therefore the capacity utilisation level followed a trend identical to the one of the production volume. It was at 48 % in 1996, increased to 53 % in 1998, subsequently fell back to 49 % in 1999 and then increased again to 53 % in the IP.

*Sales volume of the product concerned for consumption in the Community*

- (74) Only sales destined for Community consumption have been considered. On this basis, during the period under examination, the sales volume of the Community decreased from around 30 100 tonnes in 1996 to around 24 300 tonnes during the IP, an decrease of around 19 %. It is, however, important to notice that between 1996 and 1998 the sales volume increased by 9 %, reaching a level of around 33 000 tonnes in 1998, and then fell back to around 24 300 tonnes in the IP.

*Stocks*

- (75) The level of stocks decreased by around 4 % between 1996 and the IP, from around 5 600 tonnes in 1996 to around 5 400 tonnes in the IP. While it increased during the first four years of the period under examination, reaching a peak at around 6100 tonnes in 1999, it started to decrease considerably thereafter.

*Market share*

- (76) The Community industry lost 4,9 percentage points in market shares between 1996 and the IP, from 52,8 % in 1996 to 47,9 % in the IP. From 1999 there is a clear trend that the position of the Community industry on the market deteriorated, as market shares decreased from 54,7 % in 1999 to 47,9 % in the IP.

*Sales prices of the Community industry*

- (77) The Community industry' average unit net sales price decreased from EUR 1 812 in 1996 to EUR 1 413 during the IP, a decrease of 22 %. The sales prices dropped by approximately 5 % every single year.

*Profitability and return on investments*

- (78) The Community industry managed to increase its profitability (profits/losses as a percentage of turnover) from 3,1 % in 1996 to 5,2 % in 1997. After that year, however, profitability continuously eroded and was in clearly negative territory during the IP, at - 3,5 %.
- (79) The return on investments broadly followed the profitability curve during the period under examination, from 7,5 % in 1996 to - 3,7 % in the IP. It should be noted that both direct investments and a portion of investments indirectly related to the production of the product concerned have been considered.

*Cash flow*

- (80) The cash-flow generated by the sales of the product concerned increased by around 65 % between 1996 and 1998, from EUR 3 009 000 to EUR 4 939 000, and then dramatically decreased to EUR 281 000 during the IP.

*Ability to raise capital*

- (81) None of the companies mentioned any current difficulty to raise capital. However, should the cash flow continue to deteriorate, this situation may change.

*Employment and wages*

- (82) Employment in the Community industry did not follow a clear trend. It increased between 1996 and 1998, from 547 to 580 employees, decreased thereafter, but increased again to its 1998 level during the IP. The increase during the IP is to be put in relation to an increasing production during the same period. Overall wages followed a similar pattern as the number of persons employed.
- (83) The average wages per employee remained relatively stable during the years 1996 and 1997, and thereafter it gradually increased. Between 1996 and the IP, the overall increase was of around 7 %.

*Productivity*

- (84) The productivity increased by 3 % between 1996 and 1998, from 77,6 tonnes per employee to 80,2. It then dropped, but reached back its 1998 level during the IP.

*Investment*

- (85) New investments remained at a relatively stable level during the period under examination and reached around EUR 2,5 million in the IP. These investments mainly consisted of renewal or improvement of existing equipment and are not related to any capacity increases.

*Growth*

- (86) As explained above, between the years 1996 and 1998, the Community industry could benefit from the growing market, and increased its sales volume and market share. Thereafter however, the Community consumption and the Community industry sales decreased. Its market share also deteriorated.

*Magnitude of the dumping margin*

- (87) As concerns the impact on the Community industry of the magnitude of the actual margins of dumping, given the volume and the prices of the imports from the countries concerned, this impact cannot be considered to be negligible.

### 5. Conclusion on the analysis of the situation of the Community market

- (88) The introduction of the measures against China and Thailand clearly had a positive impact on the economic situation of the Community industry. Most of the injury indicators showed a positive development between 1996 and 1998. Production, capacity utilisation and sales volume went up, resulting in a gain in market shares and increasing employment. The profitability indicators such as profits/losses as a percentage of turnover, return on investments and cash flow also developed favourably. However, after 1998, the economic situation of the Community industry generally deteriorated: while production remained relatively stable and capacity utilisation and employment slightly increased, crucial indicators such as the volume of sales and market shares, as well as profitability, return of investments, cash flow and prices decreased. It is therefore concluded that the Community industry suffered material injury.

## D. CAUSATION

### 1. Introduction

- (89) According to Article 3(6) and (7) of the basic Regulation, the Commission has examined whether the dumped imports of the product concerned originating in the countries concerned have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

### 2. Effect of the dumped imports

- (90) Between 1996 and 1998, imports from the countries concerned remained at a fairly stable level. This changed radically during the remainder of the period under examination. Between 1998 and the IP, dumped imports from the countries concerned significantly increased in terms of volume and their market share rose from 2,7 % to 12,3 %. As regards the corresponding export prices, they first increased between 1996 and 1998, but decreased again between 1998 and the IP. The sharp increase of imports from the countries concerned and the significant decrease of import prices took place simultaneously with the deterioration of the situation of the Community industry in terms of decreasing sales and market share as well as price reductions and a deteriorating profitability, as from 1998. Moreover, the prices of the Community industry were, during the IP, significantly undercut by most of the dumped imports.

### 3. Effect of other factors

#### *Imports from other third countries*

- (91) Imports from other third countries increased over the period under examination, from around 6 200 tonnes in 1996 to around 8 123 tonnes in the IP. The corresponding market share also increased, from 10,9 % in 1996 to 16,0 % in the IP. Given that there is a large number of other third countries, it was provisionally concluded that, although some injury might have been inflicted by other third countries, these imports did not break the causal link between the dumped imports from the countries concerned and the material injury suffered by the Community industry.

#### *Further factors*

- (92) The Commission also examined whether further factors than the abovementioned ones might have contributed to the injury suffered by the Community industry, having regard to, in particular, a possible contraction in demand, developments in technology and productivity of the Community industry and its export performance.
- (93) As to the development of demand, the apparent consumption of TPFs first increased between 1996 and 1998, but then sharply decreased. While the decline in demand since 1998 is likely to have contributed to increased competition and exerted a certain downward pressure on prices. However, in the absence of the price pressure from the dumped imports, the decline in prices and profitability of the Community industry would have been much less marked.
- (94) In relation to the developments in technology and productivity of the Community industry, it has carried out considerable investments in order not to lose competitiveness and it has increased its productivity.

- (95) Concerning the export performance, the Community industry has increased its direct sales in export markets over the period under examination by 78 %, where it was likewise in competition with the exporting producers concerned. Direct export sales accounted for around 25 % of the total sales of the Community industry during the IP. On this basis, the Community industry has shown itself to be competitive. The export activity cannot therefore have contributed to the injury suffered by the Community industry.
- (96) It was therefore provisionally concluded that these developments did not break the causal link between the dumped imports and the material injury suffered by the Community industry.

#### 4. Conclusion on causation

- (97) It is provisionally concluded that the dumped imports originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia have caused material injury suffered by the Community industry, given the coincidence in time between the price decreases, the undercutting found and the increased volumes and market shares of the dumped imports with the decline in sales volume, prices, profitability and market shares of the Community industry. In addition, no other known factors were found to break the causal link between dumped imports from the countries concerned and this injury.

### E. COMMUNITY INTEREST

#### 1. Preliminary remark

- (98) In accordance with Article 21 of the basic Regulation, it was examined whether the imposition of anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an examination of all the various interests involved i.e. those of the Community industry, the importers/traders, and the users of the product concerned.
- (99) In order to assess the likely impact of the imposition or non-imposition of measures, the Commission requested information from all interested parties which were either known to be concerned or which made themselves known.
- (100) On this basis it was examined, whether, despite the conclusions on dumping, on the situation of the Community industry, and on causation, compelling reasons exist which would lead to the conclusion that it

is not in the Community interest to impose measures in this particular case.

#### 2. Interest of the Community industry

- (101) The Community industry has proven to be a structurally viable industry. This was confirmed by the positive development of its economic situation at a time when effective competition had been restored after the imposition of the anti-dumping measures on imports originating in China and Thailand. Indeed, it managed to increase its cash flow substantially and it improved its profitability from 3,1 % in 1996 to 5,2 % in 1997, when the combined market share of dumped imports from the countries concerned was still relatively low (below 3 %).
- (102) Were measures to be imposed, and with the ensuing return to fair market conditions, it is concluded that the Community industry would be able to restore its financial position and to maintain its activities related to the product concerned in the Community.

#### 3. Interest of unrelated importers/traders

- (103) The Commission sent questionnaires to 65 unrelated importers/traders. Nine importers replied to the questionnaire and the Commission services verified the replies of three companies on spot. Of the nine importers that replied, only three opposed expressly possible measures. One of these opposed on the grounds of costs involved in finding new suppliers. Two companies opposed on the grounds of possible job losses. These importers, however, buy TPFs from various countries of origin and still have the choice to buy from exporting producers with low measures or from countries not concerned by this proceeding without measures. Compared to the total number of importers, these effects were not considered to constitute a reason not to impose provisional anti-dumping measures.
- (104) 16 importers replied that they were not concerned by the proceeding since they did not purchase from the countries concerned during the period under examination.
- (105) Given that a number of importing companies also traded in Community produced TPFs, and given the low number of companies importing from the countries concerned expressly objecting measures, combined with the fact that, were measures imposed, other suppliers outside the Community with no duty would still be available, it can accordingly be concluded that the imposition of measures would, overall, not have a significant negative effect on importers or traders.

#### 4. Interest of users

(106) The users of the product concerned are mainly operating in the petrochemical industries as well as industries active in the building sector. The Commission sent out questionnaires to 23 user companies and five European associations of potential users. Two associations replied. One replied that it does not see the need to intervene and the other one stated that its members did not use the product concerned originating in the countries concerned. Seven user companies replied. Three of them stated that they did not use products originating in the countries concerned and four replied that they purchased their material from suppliers inside the Community without being aware of the origin of the products. No user association or company opposed to the proceeding.

(107) This lack of opposition confirms that the TPFs represent a very small part of total production costs for companies using the product concerned and that an imposition of measures would not have a significant negative effect on users.

#### 5. Competition and trade distorting effects

(108) The countries concerned accounted for 53 % of all imports of TPFs during the IP. TPFs originating in China and Thailand, which are currently subject to anti-dumping duties, accounted for a further 13 % of imports. Whilst some exporting producers from the countries concerned may withdraw from the Community market, it is reasonable to assume that most of them will continue to supply TPFs at a non-injurious price. In addition, the absence of injurious dumping from the countries concerned will make the Community market more attractive to other sources of supply.

(109) The continuing need for imports will ensure that a number of competitors to the Community producers remain on or enter the market. Together with the Community producers, they will ensure that users continue to have the choice of different and competing suppliers of the product concerned.

(110) For these reasons, it is provisionally concluded that there are no reasons why the imposition of the proposed anti-dumping duties will have a significant impact on competition. On the contrary, it would eliminate the trade-distorting effects of injurious dumping.

#### 6. Conclusion on Community interest

(111) Given the above reasons, it is provisionally concluded that it is unlikely that the possible impact on importers and user industries would offset the positive effect on the Community industry of the measures against injurious dumping. Accordingly there are no compelling reasons against the imposition of anti-dumping measures concerning imports originating in the countries having found to have practised injurious dumping.

#### F. PROVISIONAL ANTI-DUMPING MEASURES

##### 1. Injury elimination level

(112) In view of the conclusions reached with regard to dumping, injury, causation, and Community interest, provisional anti-dumping measures should be taken in order to prevent further injury being caused to the Community industry by the dumped imports. To establish the level of duty, account has been taken of the dumping margins found and of the amount of duty necessary to eliminate the injury suffered by the Community industry.

(113) To establish the level of duty needed to remove the injury caused by dumping, injury margins have been calculated. The necessary price increase was determined on the basis of a comparison of the weighted average import price with the non-injurious price of the product concerned sold by the Community industry on the Community market.

(114) The non-injurious price has been obtained by taking the actual sales prices of the Community industry, adjusting these to a break-even point, and then finally adding a profit margin that may reasonably have been achieved in the absence of injurious dumping. The profit margin used for this calculation was 5 % of turnover, as this level was reached in 1997, at a time when measures were in place against China, Croatia and Thailand and when the market share of imports from the countries concerned was still relatively low.

(115) The difference resulting from the comparison between the weighted average import price and the non-injurious price of the Community industry was then expressed as a percentage of the total cif import value.



## 2. Provisional measures

- (116) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, a provisional anti-dumping duty should be imposed in respect of the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia. This duty should be imposed at the level of the dumping margins found, except for the Republic of Korea and Zeleziarne Podbrezova a.s., where the injury margin was found to be lower than the dumping margin.
- (117) On the basis of the above, the provisional duties are as follows:

Country	Company	Provisional duty %
Czech Republic	Mavet a.s.	17,6
	Others	22,4
Malaysia	Anggerik Laksana Sdn Bhd	59,2
	Others	75,0
Russia	All companies	43,3
Korea	All companies	41,0
Slovakia	Zeleziarne Podbrezova a.s.	2,3
	Others	7,7

## 3. Undertakings

- (118) One exporting producer in Slovakia has offered a price undertaking in accordance with Article 8(1) of the basic Regulation. The Commission considers that the undertaking can be accepted since the company agreed to sell the product concerned at or above price levels which eliminate the injurious effects of dumping. Furthermore, the regular and detailed reports which the company undertook to provide to the Commission will allow for effective monitoring. In addition, the company is exclusively producing and selling the product concerned and therefore the risk of it circumventing the undertaking is limited.
- (119) In order to ensure the effective respect and monitoring of the undertaking, when the request for release into free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the anti-dumping duty shall be conditional on the presentation of a commercial invoice containing at least the elements listed in the Annex to this Regulation. This level of information is also necessary to enable customs authorities to ascertain that shipments correspond to the commercial documents at the required level of detail, and that they are covered by the undertaking. Where no such invoice is presented, or where it does not correspond to the product concerned as presented to customs, the appropriate amount of anti-dumping duty will be payable instead.
- (120) In the event of suspected breach, breach or withdrawal of the undertaking an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the basic Regulation.

## G. FINAL PROVISION

- (121) In the interest of a sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. A provisional anti-dumping duty is hereby imposed on imports of tube and pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, falling within CN codes ex 7307 93 11 (TARIC codes 7307 93 11\*91 and 7307 93 11\*99), ex 7307 93 19 (TARIC codes 7307 93 19\*91 and 7307 93 19\*99), ex 7307 99 30 (TARIC codes 7307 99 30\*92 and 7307 99 30\*98) and ex 7307 99 90 (TARIC codes 7307 99 90\*92 and 7307 99 90\*98) and originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia.

2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall be as follows for the products manufactured by:

Country	Company	Provisional anti-dumping duty (%)	TARIC additional code
Czech Republic	Mavet a.s., Trebic	17,6	A 323
	All other companies	22,4	A 999
Malaysia	Anggerik Laksana Sdn Bhd, Selangor Darul Ehsan	59,2	A 324
	All other companies	75,0	A 999
Russia	All companies	43,3	
Republic of Korea	All companies	41,0	
Slovakia	Zeleziarne Podbrezova a.s., Podbrezova	2,3	A 325
	All other companies	7,7	A 999

3. Notwithstanding paragraph 1, the provisional anti-dumping duty shall not apply to imports released into free circulation in accordance with Article 2.

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

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

*Article 2*

1. The undertaking offered by the company below in connection with the present anti-dumping proceeding is hereby accepted. Imports declared for release into free circulation under the following TARIC additional code which are produced and directly exported (i.e. shipped and invoiced) by that company to a company in the Community acting as an importer shall be exempt from the anti-dumping duty imposed by Article 1 provided that such imports are imported in conformity with paragraph 2.

Country	Company	TARIC additional code
Slovakia	Bohus s.r.o., Nálepková 310, 976 45 Hronec	A 329

2. Imports mentioned in paragraph 1 shall be exempt from the anti-dumping duty on condition that:

- a commercial invoice containing at least the elements listed in the Annex is presented to Member States' customs authorities upon presentation of the declaration for release into free circulation; and
- the goods declared and presented to customs correspond precisely to the description on the commercial invoice.

*Article 3*

1. Without prejudice to Article 20(1) of Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, present their views in writing and request a hearing from the Commission within one month of the date of the entry into force of this Regulation.
2. Pursuant to Article 21(4) of Regulation (EC) No 384/96 the parties concerned may request a hearing concerning the analyses of the Community interest and may comment on the application of this Regulation within one month of the date of the entry in force of this Regulation.

*Article 4*

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 26 February 2002.

*For the Commission*  
Pascal LAMY  
*Member of the Commission*

---

## ANNEX

The following elements shall be indicated in the commercial invoice accompanying the company's sales of tube and pipe fittings to the Community which are subject to the undertaking.

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'
  2. The name of the company mentioned in Article 2(1) issuing the commercial invoice.
  3. The commercial invoice number.
  4. The date of issue of the commercial invoice.
  5. The TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier.
  6. The exact description of the goods, including:
    - product code number (PCN),
    - description of the goods corresponding to the PCN (i.e 'PCN 1 ...', 'PCN 2 ...'),
    - company product code number (CPC) (if applicable),
    - CN code,
    - quantity (to be given in tonnes and pieces).
  7. The description of the terms of sale, including:
    - price per tonne and per piece,
    - the applicable payment terms,
    - the applicable delivery terms,
    - total discounts and rebates.
  8. Name of the company acting as an importer to which the invoice is issued directly by the company.
  9. The name of the official of the company that has issued the undertaking invoice and the following signed declaration:

'I, the undersigned, certify that the sale for direct export by [company name] to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by [company name], and accepted by the European Commission through Regulation (EC) No 358/2002. I declare that the information provided in this invoice is complete and correct.'
-

## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## DECISION No 2/2001 OF THE ACP-EC COUNCIL OF MINISTERS

of 20 December 2001

**on settling all ACP HIPC LDCs' 'special loans' remaining after full application of HIPC debt alleviation mechanisms**

(2002/168/EC)

The ACP-EC COUNCIL OF MINISTERS,

Having regard to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000 as put into early application by Decision No 1/2000 of the ACP-EC Council of Ministers,

Having regard to the Fourth ACP-EC Convention, as amended by the Agreement signed in Mauritius on 4 November 1995, and in particular Article 282(5) thereof,

Whereas:

- |  |   |
|--|---|
| <p>(1) The ACP countries have consistently and repeatedly pressed for more ambitious initiatives to reduce their external debt, and, specifically, for 100 % cancellation of public debt.</p>  | <p>(5) The current Community participation in the Enhanced HIPC Initiative takes into account exposure both on special loans and risk capital, but requires that HIPC countries use the funds provided by the Community under the initiative first to repay debt on any outstanding special loans before they start repaying on risk capital.</p>   |
| <p>(2) At the G7 summit in Cologne in June 1999 Ministers approved an Enhanced Initiative to provide faster, deeper and broader debt relief. As a result of the proposed improvements, the Community decided on a significant EC contribution to the Highly Indebted Poor Countries ('HIPC') Initiative, both as a creditor (EUR 320 million and the remaining amount of the previously earmarked EUR 40 million, both amounts from the European Development Fund ('EDF'), and as a donor (up to EUR 680 million from the EDF and EUR 54 million from the Community budget).</p> | <p>(6) Risk capital loans, although they are concerned by standard HIPC debt alleviation mechanisms, are not concerned by this additional LDC initiative (see Estimates Table in Appendix).</p>   |
| <p>(3) Although significant debt alleviation is granted within the framework of the HIPC Initiative, so as to make debt burden sustainable, additional resources for highly indebted ACP Least Developed Countries ('LDCs') would boost development and poverty alleviation.</p>   | <p>(7) In many ACP LDCs, such standard HIPC debt alleviation mechanism is sufficient to settle all special loans, but it should not be the case for some countries.</p>   |
| <p>(4) Special loans, which are concessional long-term loans defined in and granted under the First to the Third ACP-EEC Conventions to ACP Countries, are not used any more since the Fourth ACP-EC Convention.</p>   | <p>(8) The settlement of all ACP LDCs HIPC's special loans, which would remain after full application of the normal HIPC mechanism, should cost roughly EUR 55-60 million, which would come on top of the total estimated cost of the already decided Community contribution as a creditor (out of which EUR 320 + 40 million have already been set aside for the first countries to qualify). Should the total cost of the additional settlement exceed the EUR 60 million, the appropriate steps should be taken to provide for appropriate funding from EDF resources.</p> |
|  | <p>(9) Such decision would allow all ACP LDC countries having reached their decision point to benefit immediately from a total settlement of the debt service related to special loans, provided they are not concerned by Articles 96 and 97 of the ACP-EC Partnership Agreement.</p>  |
|  | <p>(10) The financing of such further initiative should use the mechanisms governing the Community participation in the HIPC Initiative as a creditor,</p>  |

HAS DECIDED AS FOLLOWS:

*Article 1*

Each least developed ACP country reaching its decision point under HIPC will benefit from a Community interim debt relief covering at least the whole debt service on special loans. After completion point, the Community will settle all special loans to least developed ACP countries qualified within the HIPC Initiative which will remain after full implementation of existing enhanced HIPC mechanisms. Nevertheless, the Community will remain creditor of those risk capital claims which will remain after full application of standard debt alleviation mechanisms under the Enhanced HIPC Initiative.

*Article 2*

The additional relief specified in Article 1 will be released in one tranche of EUR 60 million from resources of the 8th or previous EDFs or, after its entry into force, from the 9th EDF to the European Investment Bank ('EIB') Trust Fund dedicated to finance the Community contribution to the HIPC Initiative as a creditor. It will be exclusively devoted to ACP LDC additional special loans' settlements, and thus treated specifically within the EIB Trust Fund.

*Article 3*

Implementation of this specific strengthened debt relief will thus be integrated within the mechanism governing the existing Community contribution to the HIPC Initiative as a creditor, such as defined in the Financing Agreement between

the Commission of the European Communities and the ACP States. For ACP HIPC LDCs, standard HIPC procedures will apply with a common reduction factor allowing at least a total settlement of all special loans: if the HIPC common reduction factor is sufficient for that purpose, nothing will be changed; if it is not, the Commission will unilaterally provide additional relief to achieve the said total settlement.

*Article 4*

Should the EUR 60 million not be fully utilised, the remaining funds shall be used to finance 'standard' HIPC EC debt alleviation within the framework of the ACP-EC Decision regarding the Community contribution as a creditor, through the EIB Trust Fund dedicated to finance it.

*Article 5*

The Commission is requested to take the measures necessary to give effect to this Decision, which shall enter into force on the day it is adopted.

Done at Brussels, 20 December 2001.

*The President of the ACP-EC Committee of  
Ambassadors by delegation, for the ACP-EC  
Council of Ministers*

F. van DAELE

TABLEAU ESTIMATIF

## Coût indicatif d'une annulation des prêts spéciaux restant après application de l'initiative PPTE pour les ACP PMA

(sur la base des données de février 2000, avec un taux d'actualisation de 4,5 %)

	Valeur nette actualisée de l'ensemble de créances CE	dont valeur nette actualisée de tous les prêts spéciaux	Coût total estimé de la participation communautaire comme créancier à l'initiative HIPC2	Coût initiative spécifique «PS / PMA» (1)	Valeur nette actualisée des créances qui resteront après application de HIPC2 et de l'initiative «PS / PMA»
	(A)	(B)	(C)	(D = B - C si C < B)	(B - C - D)
Angola	1,68	0,00	0,00		1,68
Bénin	10,26	1,59	1,34	0,25	8,67
Burkina Faso	26,17	6,93	11,41		14,76
Burundi	32,30	23,51	25,29		7,01
Cameroun	69,37	44,51	13,87		55,49
République centrafricaine	10,57	2,60	4,89		5,67
Tchad	5,82	3,60	1,26	2,34	2,22
Congo	31,03	21,38	16,76		14,27
République démocratique du Congo	90,59	63,17	54,08	9,09	27,42
Côte d'Ivoire	125,78	38,51	26,54		99,24
Éthiopie	48,20	18,25	18,46		29,74
Ghana	88,34	18,42	0,00		88,34
Guinée	107,84	35,12	36,45		71,39
Guinée-Bissau	5,37	0,00	4,56		0,81
Guinée équatoriale	3,35	0,00	0,00		3,35
Guyana	29,32	23,07	15,71	7,36	6,24
Kenya	196,30	51,45	0,00		196,30
Madagascar	30,10	16,97	7,71	9,26	13,13
Malawi	60,52	17,42	27,78		32,74
Mali	39,17	14,74	14,92		24,25
Mauritanie	52,83	15,69	24,56		28,26
Mozambique	30,36	3,24	21,92		8,44
Niger	21,14	13,05	8,50	4,55	8,09
Rwanda	23,41	13,89	17,25		6,16
São Tomé	0,94	0,00	0,89		0,05
Sénégal	65,01	37,30	5,07	[p.m. (2) 32,23]	59,94

	Valeur nette actualisée de l'ensemble de créances CE	<i>dont valeur nette actualisée de tous les prêts spéciaux</i>	Coût total estimé de la participation communautaire comme créancier à l'initiative HIPC2	Coût initiative spécifique «PS / PMA» <sup>(1)</sup>	Valeur nette actualisée des créances qui resteront après application de HIPC2 et de l'initiative «PS / PMA»
	(A)	(B)	(C)	(D = B - C si C < B)	(B - C - D)
Sierra Leone	22,08	9,75	14,95		7,13
Tanzanie	49,82	22,94	29,24		20,57
Togo	20,80	14,48	3,35	11,14	6,32
Ouganda	29,96	0,00	16,00		13,96
Zambie	93,64	80,30	68,08	12,22	13,34
Liberia	3,85	3,31	3,85		0,00
Somalie	8,02	0,00	7,70		0,32
Soudan	28,24	7,88	28,24		0,00
<b>Total</b>	<b>1 462,15</b>	<b>623,06</b>	<b>530,64</b>	<b>56,20</b>	<b>875,30</b>

<sup>(1)</sup> Ce coût a partiellement été couvert, pour les premiers pays qui se qualifieront dans le cadre de l'initiative, à travers la décision du Conseil conjoint ACP-CE du 8 décembre 1999 (doc ACP-CE 2167/99).

<sup>(2)</sup> Le Sénégal n'est pas encore formellement un «pays moins avancé», mais devrait très prochainement intégrer officiellement ce groupe. Le coût lié à ce pays est donc indiqué pour mémoire.



**DECISION No 3/2001 OF THE ACP-EC COUNCIL OF MINISTERS**  
**of 20 December 2001**  
**on the allocation of resources to Somalia from the Eighth and Ninth European Development Fund**

(2002/169/EC)

THE ACP-EC COUNCIL OF MINISTERS,

Having regard to the Fourth ACP-EC Convention signed at Lomé on 15 December 1989 and amended by the Agreement signed in Mauritius on 4 November 1995,

Having regard to the ACP-EC Partnership Agreement, signed in Cotonou on 23 June 2000, and in particular Article 93(6) thereof,

Whereas:

- (1) By Decision No 1/2000 <sup>(1)</sup>, the ACP-EC Council of Ministers adopted transitional measures for the period from 2 August 2000 until the entry into force of the ACP-EC Partnership Agreement, envisaging the anticipated application of certain provisions of the said Partnership Agreement as well as the continued application of certain provisions of the Fourth ACP-EC Convention.
- (2) To ensure the continuation of the support to the population of Somalia, it is appropriate to allocate resources for this purpose. Article 93(6) of the ACP-EC Partnership Agreement, put into early application by Decision No 1/2000 of the ACP-EC Council of Ministers, provides for the possibility to accord special support to ACP States party to previous ACP-EC Conventions which, in the absence of normally established government institutions, have not been able to sign or ratify the ACP-EC Partnership Agreement. This provision applies to Somalia,

HAS DECIDED AS FOLLOWS:

*Article 1*

An amount of EUR 50 million shall be taken from unallocated funds remaining from the Eighth EDF for financial and technical cooperation in favour of Somalia. In accordance with Article 93(6) of the ACP-EC Partnership Agreement, this support may concern institution building and economic and social development activities, taking particular account of the needs of the most vulnerable sections of the population. The Chief Authorising Officer of the EDF shall assume the functions of National Authorising Officer for the programming and implementation of this allocation.

*Article 2*

After the entry into force of the Financial Protocol to the ACP-EC Partnership Agreement, an amount of EUR 149 million shall be allocated for financial and technical cooperation in favour of Somalia, from the long-term development envelope referred to in Article 3(a) of the Financial Protocol. In accordance with Article 93(6) of the ACP-EC Partnership Agreement, this support may concern institution building and economic and social development activities, taking particular account of the needs of the most vulnerable sections of the population. The Chief Authorising Officer of the EDF shall assume the functions of National Authorising Officer for the programming and implementation of this allocation. Should Somalia, during the period of application of the Financial Protocol to the ACP-EC Partnership Agreement, accede to this Agreement, the latter allocation will be considered as the envelope for financial assistance available to Somalia under the Financial Protocol.

*Article 3*

Until the entry into force of the Financial Protocol to the ACP-EC Partnership Agreement, Somalia may benefit from regional cooperation projects and programmes under the Eighth EDF. After the entry into force of the said Financial Protocol, Somalia may also benefit from regional cooperation funds from the Ninth EDF.

*Article 4*

The Chief Authorising Officer of the EDF is requested to take the measures necessary to give effect to this Decision.

*Article 5*

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 20 December 2001.

*For the ACP-EC Council of Ministers*

*The President*

D. REYNDERS

<sup>(1)</sup> OJ L 195, 1.8.2000, p. 46.

**DECISION No 1/2002 OF THE EC-FORMER YUGOSLAV REPUBLIC OF MACEDONIA  
COOPERATION COUNCIL****of 30 January 2002****on the introduction of two Joint Declarations concerning the Principality of Andorra and the  
Republic of San Marino and on amendments to Protocol 4 on the definition of the concept of  
originating products and methods of administrative cooperation**

(2002/170/EC)

THE COOPERATION COUNCIL,

Having regard to the Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the Former Yugoslav Republic of Macedonia, of the other part <sup>(1)</sup>, hereinafter referred to as 'the Interim Agreement',

Having regard in particular to Article 38 of Protocol 4 concerning the definition of the concept of originating products and methods of administrative cooperation to the Interim Agreement,

Whereas:

- (1) Pending the entry into force of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Former Yugoslav Republic of Macedonia, of the other part, signed in Luxembourg on 9 April 2001, Council Decision 2001/330/EC <sup>(2)</sup> has concluded the Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the Former Yugoslav Republic of Macedonia, of the other part.
- (2) In accordance with Article 50 of the Interim Agreement and following notification on 27 April 2001 by both sides regarding the completion of their respective internal procedures, the Interim Agreement together with its Annexes and Protocols, including Protocol 4 concerning the definition of the concept of originating products and methods of administrative cooperation, entered into force on 1 June 2001 <sup>(3)</sup>.
- (3) It is desirable to insert a joint declaration after Protocol 4, concerning the recognition and acceptance by the Former Yugoslav Republic of Macedonia of products originating in the Republic of San Marino as originating in the Community. The inclusion of such a joint declaration is standard practice within the context of preferential agreements negotiated by the Community with third countries and the existence of a customs union between the Community and the Republic of San Marino justifies the inclusion of such a joint declaration.

- (4) It is desirable to insert a joint declaration after Protocol 4 concerning the recognition and acceptance by the Former Yugoslav Republic of Macedonia of products falling within Chapters 25 to 97 originating in the Principality of Andorra as originating in the Community. The inclusion of such a joint declaration is standard practice within the context of preferential agreements negotiated by the Community with third countries and the existence of a customs union between the Community and Andorra for those products justifies the inclusion of such a joint declaration.
- (5) In the interests of clarity, it is desirable to correct certain errors in Protocol 4 related to mistaken references in individual Articles to other Articles, as well as a number of material errors,

HAS ADOPTED THIS DECISION:

*Article 1*

Protocol 4 concerning the definition of the concept of originating products and methods of administrative cooperation to the Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the Former Yugoslav Republic of Macedonia, of the other part, applicable since 1 June 2001 following the notification on 27 April 2001 by both sides of the completion of their respective internal procedures, is amended as follows:

1. in the 'Table of contents', in Title II, the second indent shall be replaced by the following:  

— Article 3 Bilateral cumulation in the Community';
2. in the 'Table of contents', in Title II, the third indent shall be replaced by the following:  

— Article 4 Bilateral cumulation in the Former Yugoslav Republic of Macedonia';
3. in Article 3, the title shall be replaced by the following:  

'Bilateral cumulation in the Community';

<sup>(1)</sup> OJ L 124, 4.5.2001, p. 2.

<sup>(2)</sup> OJ L 124, 4.5.2001, p. 1.

<sup>(3)</sup> OJ C 149, 19.5.2001, p. 1.

4. the last sentence in Article 3 shall be replaced by the following:

'It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond the operations referred to in Article 7.;

5. the last sentence in Article 4 shall be replaced by the following:

'It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond the operations referred to in Article 7.;

6. in Article 5, paragraph 2(a)(b)(c)(d)(e), Article 17(4) and Article 31(1), the terms 'EC Member State' and 'EC Member States' shall be replaced respectively by the following:

'Member State of the Community' and 'Member States of the Community';

7. Article 15(1) shall be replaced by the following:

'1. Non-originating materials used in the manufacture of products originating in the Community or in the Former Yugoslav Republic of Macedonia, for which a proof of origin is issued or made out in accordance with the provisions of Title V shall not be subject in the Community or the Former Yugoslav Republic of Macedonia to drawback of, or exemption from, customs duties of whatever kind.;

8. Article 15(2) shall be replaced by the following:

'2. The prohibition in paragraph 1 shall apply to any arrangement for refund, remission or non-payment, partial or complete, of customs duties or charges having an equivalent effect, applicable in the Community or in the Former Yugoslav Republic of Macedonia to materials used in the manufacture, where such refund, remission or non-payment applies, expressly or in effect, when products obtained from the said materials are exported and not when they are retained for home use there.;

9. the last subparagraph in Article 15 shall be replaced by the following:

'7. The provisions of this Article shall apply from 1 January 2003. The provisions of paragraph 6 shall apply until 31 December 2005 and may be reviewed by common accord.;

10. Article 30(1) shall be replaced by the following:

'1. For the application of the provisions of Article 21(1)(b) and Article 26(3) in cases where products are invoiced in a currency other than euro, amounts in the national currencies of the Member States or of the Former Yugoslav Republic of Macedonia equivalent to the amounts expressed in euro shall be fixed annually by each of the countries concerned.;

11. in Article 30(3) and Article 31(1) the terms 'European Commission' shall be replaced by the following:

'Commission of the European Communities';

12. in Annex II, the last indent in column (3) of Heading 1901 shall be replaced by the following:

'— the value of the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product';

13. in Annex II, the last indent in column (3) of Heading 2106 shall be replaced by the following:

'— the value of the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product';

14. in Annex II, the last three indents in column (3) applicable to the first indent in column (2) in Heading 5602, shall be replaced by the following:

'— polypropylene filament of heading No 5402,

— polypropylene fibres of heading No 5503 or 5506

or

— polypropylene filament tow of heading No 5501,

of which the denomination in all cases of a single filament or fibre is less than 9 decitex, may be used provided their value does not exceed 40 % of the ex-works price of the product';

15. in Annex II, the last three indents in column (3) applicable to the first indent in column (2) in Chapter 57, shall be replaced by the following:

'— polypropylene filament of heading No 5402,

— polypropylene fibres of heading No 5503 or 5506

or

— polypropylene filament tow of heading No 5501,

of which the denomination in all cases of a single filament or fibre is less than 9 decitex, may be used provided their value does not exceed 40 % of the ex-works price of the product

Jute fabric may be used as a backing'.

*Article 2*

After Protocol 4 the following Joint Declarations shall be added:

**JOINT DECLARATION****concerning the Principality of Andorra**

1. Products originating in the Principality of Andorra falling within Chapters 25 to 97 of the Harmonised System shall be accepted by the Former Yugoslav Republic of Macedonia as originating in the Community within the meaning of this Agreement.
2. Protocol 4 shall apply *mutatis mutandis* for the purpose of defining the originating status of the abovementioned products.

**JOINT DECLARATION****concerning the Republic of San Marino**

1. Products originating in the Republic of San Marino shall be accepted by the Former Yugoslav Republic of Macedonia as originating in the Community within the meaning of this Agreement.
2. Protocol 4 shall apply *mutatis mutandis* for the purpose of defining the originating status of the abovementioned products.

*Article 3*

This Decision shall enter into force on the day of its adoption and shall apply from the first day of the month following its adoption.

Done at Brussels, 30 January 2002.

*For the Cooperation Council*  
*The President*

---

# COMMISSION

## COMMISSION DECISION

of 2 October 2001

on German aid to the coal industry for the period from 1 January 2002 to 23 July 2002

(notified under document number C(2001) 3005)

(Only the German text is authentic)

(Text with EEA relevance)

(2002/171/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Commission Decision No 3632/93/ECSC of 28 December 1993 establishing Community rules for State aid to the coal industry<sup>(1)</sup>, and in particular Article 9(4) thereof,

Whereas:

I

(1) By letter of 22 November 2000, Germany notified the Commission, in accordance with Article 9(1) of Decision No 3632/93/ECSC, of the financial measures it intended to take for the coal industry in 2002.

(2) Decision No 3632/93/ECSC expires on 23 July 2002. Accordingly, the Commission can, in accordance with the aforementioned Decision, only decide on aid to be granted to the coal industry up to 23 July 2002. Consequently, by letter of 30 January 2001 the Commission asked Germany to specify the amounts for each type of aid to be granted in the period from 1 January to 23 July 2002.

(3) The information requested by the Commission was transmitted by letter of 16 July 2001. Germany calculated the amounts of aid for the period from 1 January to 23 July 2002 on the basis of a theoretical model in which the number of days of coal production in the aforementioned period was related to the number of days of coal production during the whole of 2002.

(4) Pursuant to Decision No 3632/93/ECSC, the Commission is required to take a decision on the following financial measures:

(a) operating aid within the meaning of Article 3 of the Decision totalling DEM 1 917 million;

(b) aid for the reduction of activity within the meaning of Article 4 of the Decision totalling DEM 785 million;

(c) aid within the meaning of Article 3 of the Decision totalling DEM 33 million to maintain an underground labour force (*Bergmannsprämie*);

(d) aid to cover exceptional costs within the meaning of Article 5 of the Decision totalling DEM 1 320 million.

(5) In addition to the abovementioned amounts, the intention is to grant a cross-subsidy of DEM 200 million from the non-coal sector of RAG AG. This commitment of the undertaking forms part of an agreement (coal agreement) concluded on 13 March 1997 between the German Government and the regional governments of North Rhine-Westphalia and Saarland and the coal industry after consultation with the coalminers' trade unions and the electricity sector. The German Government guarantees the amount required to reach the level of the planned cross-subsidy, with RAG AG paying the German Government an amount equal to 0,25 % of this guarantee per half-year. Any sums received under this guarantee scheme must be paid back from the future profits of RAG AG deriving from its non-coal activities.

(6) In its letter of 22 November 2000 Germany confirmed that RAG AG would for 2002 transfer DEM 200 million from its non-coal sector to the coal sector. The statements made by Germany in no way indicate that the amount specified has to be taken up from the German Government's guarantee. Accordingly, the

<sup>(1)</sup> OJ L 329, 30.12.1993, p. 12.

amount does not include an aid component within the meaning of Article 4(c) of the ECSC Treaty. Moreover, the price to be paid by RAG AG for the German Government's guarantee is commensurate with any advantages which the undertaking could draw from it.

- (7) The financial measures proposed by Germany as referred to in point 4 come under the provisions of Article 1(1) of Decision No 3632/93/ECSC. In accordance with Article 9(4), the Commission is required to give its approval for these measures. For this purpose, it checks whether they conform to the general objectives and criteria defined in Article 2 and the specific criteria defined in Articles 3, 4 and 5 of the Decision and whether they are compatible with the functioning of the common market. Furthermore, in accordance with Article 9(6) of the Decision, the Commission has to decide whether the notified measures are compatible with the plan for the modernisation, rationalisation and restructuring of and reduction of activity in the German coal industry which the Commission authorised by Decision 1999/270/ECSC <sup>(1)</sup> and Decision 2001/361/ECSC <sup>(2)</sup>.

## II

- (8) The amount of DEM 1 917 million that Germany is proposing to grant to the coal industry under Article 3 of Decision No 3632/93/ECSC for the period from 1 January to 23 July 2002 is intended to cover the difference between production costs and the selling price for coal freely agreed between the contracting parties on the basis of the conditions prevailing on the world market for coal of similar quality from third countries.
- (9) This aid is granted only to cover operating losses linked to production capacities meeting the conditions laid down in Article 2(1), first indent, and Article 3 of Decision No 3632/93/ECSC.
- (10) The measures relating to restructuring, rationalisation, modernisation and reduction of activity in the coal industry taken since 1994 have enabled significant progress to be made in reducing production costs for coal. For production capacities receiving aid under Article 3 of Decision No 3632/93/ECSC, production costs, expressed at constant 1992 prices, dropped by 15 % between 1994 and 2000. In 2001, these costs are

likely to drop by about 6 % and in 2002 by about 4 % (\*).

- (11) These reductions in production costs are the result, in particular, of the gradual closure of the least profitable production units that do not meet the criteria laid down in Article 3 of Decision No 3632/93/ECSC. In accordance with the plan for the modernisation, rationalisation and restructuring of and reduction of activity approved by the Commission in its Decision 2001/361/ECSC, the Friedrich Heinrich/Rheinland and Niederberg mines will be amalgamated in 2002. Production at the Niederberg site will be discontinued and the two remaining coal-fields will be attached to the Friedrich Heinrich/Rheinland mine. After amalgamation, the production capacity of the mines should be reduced to some 3,5 million tonnes, a reduction estimated at 2 million tonnes compared with 2000. The amalgamated mines should employ 3 800 underground workers, a reduction of around 1 000 posts compared with 2000.
- (12) The reduction in production costs will help to improve the economic viability of the German coal industry. Although the level of costs remains high, the continuous efforts which have led to a significant and sustained reduction in production costs mean that coal mining is less unprofitable and uncompetitive.
- (13) The Commission has carried out a detailed analysis of the geological conditions and economic situation specific to each production unit. Although there are certain variations between the production costs of the various production units, the situation for each site considered individually does not differ significantly from the situation and development of the coal industry as a whole. The terms and conclusions of the analysis of the data relating to the whole of the German coal industry therefore also apply *mutatis mutandis* to each of the various production units.
- (14) Although the coal agreement of 1997 provided for an output of 37 million tce <sup>(3)</sup> in 2002, the additional measures concerning reduction of activity will cut production in 2002 to less than 28,5 million tce.
- (15) The German restructuring measures have helped, in accordance with Article 2(1), first indent, of Decision No 3632/93/ECSC, to achieve degression of aid in the coal industry.
- (16) In accordance with Article 3(1), first indent, of Decision No 3632/93/ECSC, Germany is taking the necessary measures to ensure that the amount of aid per tonne does not exceed for each production unit the difference between production costs and foreseeable revenue. Moreover, Germany undertakes, to ensure, in accordance

<sup>(1)</sup> OJ L 109, 27.4.1999, p. 14.

<sup>(2)</sup> OJ L 127, 9.5.2001, p. 55.

(\*) The Commission Decision contains data regarding Deutsche Steinkohle AG that must be regarded as confidential. They have been replaced by percentages solely for the purpose of this publication.

<sup>(3)</sup> tce = tonnes coal equivalent.

with Article 3(1), third indent, of the Decision, that the amount of operating aid per tonne does not cause delivered prices for Community coal to be lower than those for coal of a similar quality from third countries.

- (17) Should it transpire that certain production capacities could not meet the conditions laid down in Article 3 of Decision No 3632/93/ECSC, Germany will give the reasons for any deviations from the forecasts given in the plan for the modernisation, rationalisation and restructuring of and reduction of activity in the coal industry and from the economic and financial forecasts submitted to the Commission in connection with the notification of aid relating to 2002. Where appropriate, Germany will propose to the Commission, on its own initiative, the necessary corrective measures, including measures to reduce production capacity.
- (18) On the basis of the information provided by Germany, and having regard to the obligations of the German Government set out in recitals 36 to 44 of this Decision, the operating aid planned for the period from 1 January to 23 July 2002 is compatible with Decision No 3632/93/ECSC, and in particular Articles 2 and 3 thereof.

### III

- (19) The sum of DEM 785 million that Germany is proposing to grant to the coal industry under Article 4 of Decision No 3632/93/ECSC for the period from 1 January to 23 July 2002 is intended to cover the difference between production costs and the selling price of coal freely agreed between the contracting parties on the basis of the conditions prevailing on the world market for coal of a similar quality from third countries.

- (20) In accordance with Article 4(1) of the abovementioned Decision, this aid is granted only for the purpose of covering the operating losses linked to production capacities which are unable to meet the conditions laid down in Article 3(2) of the Decision.
- (21) The aid is intended to cover operating losses linked to production capacities closed down in the amalgamation of the Friedrich Heinrich/Rheinland and Niederberg mines and the operating losses of production units to be closed down after 2002 in accordance with Decision 2001/361/ECSC. All of these capacity reductions combined should bring about a concentration of production at those sites offering, in terms of production costs, the best prospects of improving economic viability.

- (22) In accordance with Article 4(2) of Decision No 3632/93/ECSC, exceptional social and regional grounds justify the postponement of the closure of certain production units beyond the date of expiry of the ECSC Treaty. These measures form part of a plan for the gradual and continuing reduction of activity providing for a significant reduction in production before the expiry of the abovementioned Decision.
- (23) In accordance with Article 3(1), first indent, of Decision No 3632/93/ECSC, Germany is taking the necessary measures to ensure that the amounts of aid per tonne do not exceed for each production unit the difference between production costs and foreseeable revenue. Moreover, Germany undertakes to ensure, in accordance with Article 3(1), third indent, of the abovementioned Decision, that the amount of aid for reduction of capacity per tonne does not cause delivered prices for Community coal to be lower than those for coal of similar quality from third countries.
- (24) On the basis of the information provided by Germany, and having regard to the obligations on the German Government set out in recitals 36 to 44 of this Decision, the aid for reduction of capacity planned for the period from 1 January to 23 July 2002 is compatible with Decision No 3632/93/ECSC, and in particular Articles 2 and 4 thereof.

### IV

- (25) The aid measures totalling DEM 33 million are intended to fund the payments to miners in the German coal industry (*Bergmannsprämie*) for the period from 1 January to 23 July 2002. This is an incentive scheme, amounting to a sum of DEM 10 per underground job, aimed at encouraging skilled workers to work underground and rationalising production. According to the notifications submitted by Germany, this aid covers a cash benefit for miners. Although this payment to miners is not involved directly in the calculation of the production costs of the undertaking, the aid intended to cover this payment relieves the wage burden on the undertaking. Accordingly, this payment relates, in the broad sense, objectively to a component of the production costs of the undertaking concerned and as such constitutes aid within the meaning of Article 1(2) which has to be examined in accordance with the provisions of Article 3 of Decision No 3632/93/ECSC.

- (26) The proposed aid facilitates the restructuring and rationalisation of the coal industry by allowing productivity levels to be raised as far as possible. This aid therefore helps to achieve the objective referred to in Article 2(1), first indent, of Decision No 3632/93/ECSC, namely to make, in the light of coal prices on international markets, further progress towards economic viability with the aim of achieving degression of aid.
- (27) This aid will help to some extent, in accordance with the provisions of Article 3 of Decision No 3632/93/ECSC, to make the coal industry more competitive by helping to reduce the costs of coal mining, thanks to increased productivity achieved by maintaining a skilled underground labour force.
- (28) In accordance with Article 3(1), first indent, of Decision No 3632/93/ECSC, Germany undertakes to ensure that the combination of the *Bergmannsprämie* with other aid for current production does not exceed, for each production unit, the difference between production costs and foreseeable revenue.
- (29) Having regard to the above and on the basis of the information provided by Germany, the aid proposed for the period from 1 January to 23 July 2002 for the *Bergmannsprämie* is compatible with the objectives of Decision No 3632/93/ECSC, and in particular Articles 2 and 3 thereof.
- V
- (30) The amount of DEM 1 320 million that Germany is proposing to grant to the coal industry under Article 5 of Decision No 3632/93/ECSC for the period from 1 January to 23 July 2002 is intended to cover the costs arising from or having arisen from the modernisation, rationalisation and restructuring of the coal industry which are not related to current production (inherited liabilities).
- (31) The closure of three mines in 2000, namely the Westfalen, Göttelborn/Reden and Ewald/Hugo mines, justify this relatively high amount of aid. The amalgamation of the Auguste Victoria and Blumenthal/Haard mines in 2001 and of the Friedrich Heinrich/Rheinland and Niederberg mines in 2002 also leads to a rise in exceptional costs.
- (32) This aid is intended to cover the following, with the exception of the costs of social benefits borne by the State by way of the special contribution referred to in Article 56 of the ECSC Treaty: the cost of paying social welfare benefits resulting from the pensioning-off of workers before they reach statutory retirement age; other exceptional expenditure on workers who lose their jobs as a result of restructuring and rationalisation; the payment of pensions and allowances outside the statutory system to workers who lose their jobs as a result of restructuring and rationalisation and to workers entitled to such payments before restructuring; the supply of free coal to workers who lose their jobs as a result of restructuring and rationalisation and to workers entitled to such payments before restructuring. On the technical and financial levels, the aid is intended to cover additional underground safety work resulting from restructuring and exceptional intrinsic depreciation provided that it results from the restructuring of the industry.
- (33) These costs correspond to the categories defined in the Annex to Decision No 3632/93/ECSC and more specifically the costs mentioned in points I(a) to (d), (f) and (k). In accordance with Article 5(1) of the abovementioned Decision, the amounts of aid proposed by Germany for the period from 1 January to 23 July 2002 do not exceed the costs incurred.
- (34) The reduction in pressure on the undertaking receiving aid made possible by the covering of these costs will reduce its financial imbalance and enable it to continue its activities. The aid therefore complies with the objectives of Article 2(1) of Decision No 3632/93/ECSC.
- (35) Having regard to the above, and on the basis of the information communicated by Germany, the aid to cover exceptional costs for the period from 1 January to 23 July 2002 is compatible with the objectives of Decision No 3632/93/ECSC, and in particular Articles 2 and 5 thereof.
- VI
- (36) Given that the aim is to minimise aid, and pursuing the principle applied by Germany that aid is only to be paid for production which is supplied for electricity generation and to the Community iron and steel industry, Germany undertakes to sell the production intended for use by industry and as domestic coal at prices (net prices without discounts) which cover the production costs.
- (37) In accordance with Article 2(2) of Decision No 3632/93/ECSC, the aid must be entered by Germany in the national, regional or local public budgets or channelled through strictly equivalent mechanisms.



- (38) The Commission would remind Germany that an essential feature of the aid rules is that the aid must be in the Community interest and must not disrupt the proper functioning of the common market. Germany will also take care to ensure that the aid does not distort competition or produce discrimination between coal producers or between coal buyers and users in the Community.
- (39) It also gives its assurance, pursuant to the provisions of Article 86 of the ECSC Treaty, that the aid will be limited to what is absolutely essential taking account of the economic considerations linked to the necessary restructuring of the coal industry, on the one hand, and the social and regional considerations relating to the decline of coalmining in the Community, on the other.
- (40) The aid must not provide an economic advantage, either directly or indirectly, to production for which aid is not authorised or to any activity other than coalmining, for example, industrial activities relating to the mining or processing of coal from the Community.
- (41) To enable the Commission to examine whether the production units which receive operating aid pursuant to Article 3 of Decision No 3632/93/ECSC actually generate a trend towards a reduction in production costs at world prices, Germany undertakes to notify the Commission no later than 30 September of each year of the production costs of each production unit during the previous year and of all the information pursuant to Article 9 of Decision No 3632/93/ECSC.
- (42) If, in particular, the conditions laid down in Article 3(2) of the abovementioned Decision cannot be met, Germany will propose the necessary corrective action to the Commission such as a review of the classification of production capacities pursuant to Articles 3 and 4 of the Decision.
- (43) The Commission is required, in accordance with the second indent of Article 3(1) and Article 9(2) and (3) of Decision No 3632/93/ECSC, to verify whether the aid granted for current production achieves only the objectives set out in Articles 3 and 4 of the Decision. Germany will serve notification no later than 30 September 2003 of the level of aid actually paid in the period from 1 January to 23 July 2002. It will serve notification of any changes to the sums originally notified. In this annual list, it will provide all information required for verifying compliance with the criteria laid down in the abovementioned Articles.

- (44) In approving the aid, the Commission has taken account of the need to minimise the social and regional impact of restructuring.

HAS ADOPTED THIS DECISION:

*Article 1*

Germany is hereby authorised to take the following measures to assist the coal industry for the period from 1 January to 23 July 2002:

- (a) operating aid as defined in Article 3 of Decision No 3632/93/ECSC totalling DEM 1 917 million;
- (b) aid for the reduction of activity as defined in Article 4 of Decision No 3632/93/ECSC totalling DEM 785 million;
- (c) aid as defined in Article 3 of Decision No 3632/93/ECSC totalling DEM 33 million to maintain an underground labour force (*Bergmannsprämie*);
- (d) aid as defined in Article 5 of Decision No 3632/93/ECSC totalling DEM 1 320 million to cover exceptional costs.

*Article 2*

Germany shall ensure that the aid granted is used only for the purposes specified in its notifications of 22 November 2000 and 16 July 2001 and that any unused, overestimated or misused expenditure in relation to any items referred to in Article 1 is repaid to it.

*Article 3*

Without prejudice to the obligations under Article 9(1), (2) and (3) of Decision No 3632/93/ECSC, Germany shall provide information no later than 30 September 2003 about payments actually made during the period from 1 January to 23 July 2002.

*Article 4*

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 2 October 2001.

*For the Commission*

Loyola DE PALACIO

*Vice-President*

**COMMISSION DECISION****of 25 February 2002****prolonging the period of validity of Decision 1999/476/EC establishing the ecological criteria for the award of the Community eco-label to laundry detergents***(notified under document number C(2002) 462)***(Text with EEA relevance)**

(2002/172/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community eco-label award scheme <sup>(1)</sup>, and in particular Articles 4 and 6 thereof,

Whereas:

- (1) Regulation (EC) No 1980/2000 provides for the award of an eco-label to a product possessing characteristics which enable it to contribute significantly to improvements in relation to key environmental aspects.
- (2) According to Article 4 of Regulation (EC) No 1980/2000, specific eco-label criteria should be established according to product groups, and a review of the eco-label criteria as well as of the assessment and verification requirements related to the criteria should take place in due time before the end of the period of validity of the criteria specified for each product group, resulting in a proposal for prolongation, withdrawal or revision.
- (3) By Decision 1999/476/EC <sup>(2)</sup> the Commission established ecological criteria for the award of the Community eco-label to laundry detergents, which, according to Article 3 thereof, expire on 10 June 2002.
- (4) Following the review, it is considered appropriate to prolong the period of validity of the definition of the product group and the ecological criteria, unchanged, for a period of eighteen months, in particular to allow

those companies that have been awarded the eco-label to continue using the eco-label at least until the revision of Decision 1999/476/EC is completed.

- (5) The period of validity set out in Article 3 of Decision 1999/476/EC should therefore be extended.
- (6) The measures set out in this Decision are in accordance with the opinion of the committee set up under Article 17 of Regulation (EC) No 1980/2000,

HAS ADOPTED THIS DECISION:

*Article 1*

The period of validity set out in Article 3 of Decision 1999/476/EC for the product group definition and the criteria of the product group bearing the administrative code number 006 is prolonged until 31 December 2003.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 25 February 2002.

*For the Commission*

Margot WALLSTRÖM

*Member of the Commission*

<sup>(1)</sup> OJ L 237, 21.9.2000, p. 1.

<sup>(2)</sup> OJ L 187, 20.7.1999, p. 52.

**COMMISSION DECISION****of 25 February 2002****prolonging the period of validity of Decision 1999/427/EC establishing the ecological criteria for the award of the Community eco-label to detergents for dishwashers***(notified under document number C(2002) 463)***(Text with EEA relevance)**

(2002/173/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community eco-label award scheme <sup>(1)</sup>, and in particular Articles 4 and 6 thereof,

Whereas:

- (1) Regulation (EC) No 1980/2000 provides for the award of an eco-label to a product possessing characteristics which enable it to contribute significantly to improvements in relation to key environmental aspects.
- (2) According to Article 4 of Regulation (EC) No 1980/2000, specific eco-label criteria should be established according to product groups, and a review of the eco-label criteria as well as of the assessment and verification requirements related to the criteria should take place in due time before the end of the period of validity of the criteria specified for each product group, resulting in a proposal for prolongation, withdrawal or revision.
- (3) By Decision 1999/427/EC <sup>(2)</sup> the Commission established ecological criteria for the award of the Community eco-label to detergents for dishwashers, which, according to Article 3 thereof, expire on 31 May 2002.
- (4) Following the review, it is considered appropriate to prolong the period of validity of the definition of the product group and the ecological criteria, unchanged,

for a period of eighteen months, in particular to allow those companies that have been awarded the eco-label to continue using the eco-label at least until the revision of Decision 1999/427/EC is completed.

- (5) The period of validity set out in Article 3 of Decision 1999/427/EC should therefore be extended.
- (6) The measures set out in this Decision are in accordance with the opinion of the committee set up under Article 17 of Regulation (EC) No 1980/2000,

HAS ADOPTED THIS DECISION:

*Article 1*

The period of validity set out in Article 3 of Decision 1999/427/EC for the product group definition and the criteria of the product group bearing the administrative code number 15 is prolonged until 30 November 2003.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 25 February 2002.

*For the Commission*

Margot WALLSTRÖM

*Member of the Commission*<sup>(1)</sup> OJ L 237, 21.9.2000, p. 1.<sup>(2)</sup> OJ L 167, 2.7.1999, p. 38.