

English edition

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1514/2002

of 19 August 2002

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed 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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

A. PROVISIONAL MEASURES

- (1) The Commission, by Regulation (EC) No 358/2002⁽²⁾ (the 'provisional Regulation'), imposed a provisional anti-dumping duty on imports of certain tube and pipe fittings (TPFs), of iron or steel, falling within CN codes ex 7307 93 11, ex 7307 93 19, ex 7307 99 30 and ex 7307 99 90, originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia.
- (2) It is recalled that the investigation period of dumping and injury covered the period from 1 April 2000 to 31 March 2001 ('IP'). The examination of trends relevant for the injury analysis covered the period from 1 January 1996 to 31 March 2001 ('period under consideration').

B. SUBSEQUENT PROCEDURE

- (3) Following the imposition of provisional anti-dumping duties on imports of certain tube and pipe fittings originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia, some interested parties submitted comments in writing. The parties who so requested were also granted an opportunity to be heard orally.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).

⁽²⁾ OJ L 56, 27.2.2002, p. 4.

- (4) The Commission continued to seek and verify all information it deemed necessary for its definitive findings.
- (5) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties. They were also granted a period within which they could make representations subsequent to this disclosure.
- (6) The oral and written comments submitted by the parties were considered, and, where appropriate, the provisional findings have been modified accordingly.

C. PRODUCT CONCERNED AND LIKE PRODUCT

- (7) In the absence of any comments, the product description and the definition of the like product as set out in recitals 9 to 12 of the provisional Regulation are confirmed.

D. DUMPING

1. General methodology

- (8) In the absence of any comments, the general methodology for establishing the dumping margins as set out in recitals 15 to 28 of the provisional Regulation is confirmed.

2. Dumping margins

- (9) In the absence of any comments, the determination of the normal value, the export price and the comparison for the Czech Republic, Malaysia, Republic of Korea, Slovakia and the determination of the market economy status and analogue country for Russia, as described in recitals 29 to 60 of the provisional Regulation, are confirmed.

- (10) The definitive dumping margins, expressed as a percentage of the CIF import price at the Community border, are confirmed as follows:

Country	Company	Dumping margin (%)
Czech Republic	Mavet a.s., Trebic	17,6
	Bovex s.r.o.	22,4
Malaysia	Anggerik Laksana Sdn Bhd	59,2
Republic of Korea		83,9
Slovakia	Bohus s.r.o.	7,7
	Zeleziarne Podbrezova a.s.	15,0
Russia		43,3

E. COMMUNITY INDUSTRY

- (11) In the absence of any comments, the provisional findings concerning the determination of the Community industry as described in recitals 61 to 62 of the provisional Regulation are confirmed.

F. INJURY

1. Community consumption

- (12) In the absence of any new information, the provisional findings concerning the Community consumption as described in recitals 63 to 64 of the provisional Regulation are confirmed.

2. Imports from the countries concerned

Cumulative assessment of the effects of the imports concerned, volume, market share and prices of the imports concerned

- (13) The provisional Regulation concluded that the imports originating in the countries concerned should be assessed cumulatively since the criteria set out in the Article 3(4) of the basic Regulation were met. Indeed, the dumping margins found for all the countries concerned were more than *de minimis*, the volume of imports were 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. These similar conditions of competition were evidenced by the fact that the imported TPFs and those of the Community industry were alike and distributed via the same trade channels under similar commercial conditions. Moreover, all import volumes were substantial and resulting in significant market shares, which increased between 1996 and the IP, and were made at prices significantly undercutting the prices of the Community industry thus leading to a price depression of the Community industry's prices.

- (14) In the absence of any comments under these headings, the provisional findings as described in recitals 65 to 67 of the provisional Regulation are confirmed.

Price undercutting

- (15) One Slovak exporting producer questioned the methodology used by the Commission for the calculation of the price undercutting margins. This relates more specifically to the method of the so-called 'zeroing', by which the positive margins for the models that are overcutting are disregarded. This argument is based on the conclusions reached by the WTO Appellate Body in the bed linen case⁽¹⁾ by which, on the facts of the case concerned, the practice of zeroing when establishing the existence of margins of dumping, which in that case was established by a comparison of the weighted average normal value with the weighted average export price as established by the Commission, was found to be inconsistent with the Article 2.4.2 of the WTO Anti-Dumping Agreement.

- (16) Accordingly, it should be noted that the WTO Appellate Body in any event exclusively examined the practice of 'zeroing' when used to establish the existence of dumping margins. In addition, the WTO Anti-Dumping Agreement does not set out any methodological requirements for the calculation of price undercutting.

- (17) In any event, in the current case, in view of the very few models for which no undercutting was found, the application of the 'zeroing' methodology does not lead to significantly different results, the difference between applying zeroing or not amounting to less than 1 %. In other words the undercutting margins would remain significant even if no zeroing was applied. The argument had therefore to be rejected.

- (18) The Community industry argued that no adjustment for level of trade should be made in order to establish the price undercutting margin. Indeed, both the exporting producers and the Community industry supply the same category of customers, and therefore act on the same level of trade. It was further claimed that consequently only an adjustment covering customs clearance cost was justified.

- (19) A further analysis of the information available established that both the Community industry and the exporting producers generally supply the same type of customers in the Community, i.e. wholesalers. This was also supported by the fact that the three cooperating unrelated importers, whose activity is the one of wholesalers, were supplied by both the Community industry

⁽¹⁾ European Communities: Anti-dumping duties on imports of cotton-type bed linen from India, WT/DS/AB/R, 1.3.2001.

and the exporting producers from the countries concerned. The argument was therefore accepted and the undercutting margins revised accordingly. The revised adjustment was limited to an amount covering exclusively the customs clearance costs, on the basis of the information provided by the cooperating unrelated importers.

(20) The Community industry further questioned the level of the undercutting margin calculated for one of the Slovak exporting producers. It was argued that this level of undercutting was inconsistent with the average price level as given by international trade statistics as well as market information.

(21) The calculations of the price undercutting margins were accordingly reviewed, and a clerical error was found in the calculation of the export price used for the establishment of this exporting producer's margin of undercutting. The margin was therefore revised.

(22) Taking the above into consideration, the definitive revised weighted average price undercutting margins found per country, expressed as a percentage of the Community industry prices, are as follows:

- Czech Republic: from 19 % to 21 %,
- Malaysia: from 52 % to 72 %,
- Russia: 26 %,
- Republic of Korea: 23 %,
- Slovakia: from 15 % to 36 %.

3. Situation of the Community industry

(23) It is recalled that the introduction of the measures against China, Croatia and Thailand 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, employment and wages slightly increased, crucial indicators such as the volume of sales and market shares decreased as well as profitability, return on investments cash flow and prices. On the basis of the above and of the findings regarding productivity, investments, growth and magnitude of dumping, it was therefore concluded, at a provisional stage, that the Community industry suffered material injury.

(24) In the absence of any comments, the facts and figures as set out in recitals 72 to 87 of the provisional Regulation are confirmed.

4. Conclusion on injury

(25) In the absence of any further comments on the findings other than those set out above, the conclusion reached as set out in recital 88 of the provisional Regulation is confirmed.

G. CAUSATION

(26) In the absence of any new information submitted on causation, the findings and the conclusion reached as set out in recitals 89 to 97 of the provisional Regulation are confirmed.

H. COMMUNITY INTEREST

(27) In the absence of any new information submitted on the Community interest, the findings and the conclusion reached as set out in recitals 98 to 111 of the provisional Regulation are confirmed.

I. DEFINITIVE ANTI-DUMPING MEASURES

1. Injury elimination level

(28) Based on the methodology explained in recitals 112 to 115 of the provisional Regulation an injury elimination level has been calculated for the purposes of establishing the level of measures to be definitively imposed.

(29) One exporting producer questioned the level of the profit margin of 5 % that was used for the purpose of establishing the non-injurious price of the Community industry, claiming it was too high. It also claimed that this level of profit margin was not sufficiently explained in the disclosed document.

(30) As to the first claim, it is recalled that, in view of the negative impact on the profitability of the Community industry resulting from the price depressive effect caused by the dumped imports, as indicated in recital 71 of the provisional Regulation, the calculation of the non-injurious price was based on a level of profit that the Community industry might have reasonably achieved in the absence of injurious dumping. As explained in the recital 114 of the provisional Regulation, a profit margin of 5 % was deemed reasonable, since this level of profit corresponds to the actual level of profit that the Community industry could achieve in 1997, on a Community market free of dumped imports. Indeed, at that time, measures were in place against China, Croatia

and Thailand and the market share of imports from the countries concerned was still relatively low. Moreover, it was considered that this profit margin would allow the Community industry to make the necessary investments. As to the second claim, it should be noted that the Commission explained in sufficient detail in the disclosure document on which basis it calculated the level of profit margin used for the non-injurious price, as also explained in recital 114 of the provisional Regulation. The claims have therefore to be rejected.

- (31) In addition, the same level of profit was also used for the establishment of the injury margin in the proceeding concerning the abovementioned countries, and there is no reason to believe that significant changes in circumstances have occurred since then.
- (32) The use of a profit margin of 5 % of turnover for the calculation of the non-injurious price is therefore confirmed.
- (33) On the basis of the above, the methodology used for establishing the injury elimination level as described in recitals 112 to 115 of the provisional Regulation is confirmed.
- (34) As mentioned above in relation to price undercutting margins, injury margins were reviewed and amended for one of the exporting producers in Slovakia.

2. Form and level of the duties

- (35) In the light of the foregoing and in accordance with Article 9(4) of the basic Regulation, a definitive 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, where the injury margin was found to be lower than the dumping margin.
- (36) On the basis of the above, the definitive duties are as follows:

Country	Company	Anti-dumping duty (%)
Czech Republic	All companies	22,4
Malaysia	Anggerik Laksana Sdn Bhd	59,2
	Others	75,0
Russia	All companies	43,3
Republic of Korea	All companies	44,0
Slovakia	All companies	15,0

3. Collection of provisional duties

- (37) In view of the magnitude of the dumping margins found and in the light of the level of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation, should be definitively collected at the rate of the duty definitively imposed. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties should be definitively collected.
- (38) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission ⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

4. Undertakings

- (39) It is recalled that one exporting producer in Slovakia has offered a price undertaking in accordance with Article 8(1) of the basic Regulation. This price undertaking was accepted in the provisional Regulation.
- (40) Subsequent to the imposition of provisional anti-dumping measures, one exporting producer in the Czech Republic offered a price undertaking in accordance with Article 8(1) of the basic Regulation. By doing so, it has agreed to sell the product concerned at or above price levels which eliminate the injurious effects of dumping. The company will also provide the Commission with regular and detailed information concerning its exports to the Community, meaning that the undertaking can be monitored effectively by the Commission. Furthermore, the sales structure of this exporting producer is such that the Commission considers that the risk of circumventing the agreed undertaking is limited.
- (41) To further enable the Commission to effectively monitor the compliance of the company with its undertaking, when the request for release for free circulation is presented to the relevant customs authority, exemption from the anti-dumping duty is to be conditional on the presentation of a commercial invoice containing at least

⁽¹⁾ European Commission, DG Trade, Directorate B, J-79 — 3/35, B-1049 Brussels.

the elements listed in the Annex. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that shipments correspond to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty will instead be payable.

HAS ADOPTED THIS REGULATION:

Article 1

- (42) In view of this, the offer of the undertaking is therefore considered acceptable by the Commission and the company concerned has been informed of the essential facts, considerations and obligations upon which acceptance is based.
- (43) It should be noted that in the event of a breach or withdrawal of the undertaking or a suspected breach, an anti-dumping duty may be imposed, pursuant to Articles 8(9) and (10) of the basic Regulation.
- (44) The above undertaking is accepted by Commission Decision 2002/675/EC ⁽¹⁾,

1. A definitive 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 definitive 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	Definitive anti-dumping duty (%)	TARIC additional code
Czech Republic	Mavet a.s., Trebic	17,6	A323
	All other companies	22,4	A999
Malaysia	Anggerik Laksana Sdn Bhd, Selangor Darul Ehsan	59,2	A324
	All other companies	75,0	A999
Russia	All companies	43,3	
Republic of Korea	All companies	44,0	
Slovakia	All companies	15,0	A999

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

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

Article 2

1. 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 the company below 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 of this Article.

Country	Company	TARIC additional code
Czech Republic	Bovex s.r.o., Hercikova 4, 612 00 Brno	A387
Slovakia	Bohus s.r.o., Nálepškova 310, 976 45 Hronec	A329

⁽¹⁾ See page 34 of this Official Journal.

2. Imports mentioned in paragraph 1 shall be exempt from the anti-dumping duty on condition that:
- (a) 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
 - (b) the goods declared and presented to customs correspond precisely to the description on the commercial invoice.

Article 3

Amounts secured by way of provisional anti-dumping duties pursuant to Regulation (EC) No 358/2002 on imports of certain tube and pipe fittings, of iron or steel falling within CN codes ex 7307 93 11, ex 7307 93 19, ex 7307 99 30 and ex 7307 99 90 and originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia shall be definitively collected at the rate of the duty definitively imposed. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties should be definitively collected.

Article 4

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

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

Done at Brussels, 19 August 2002.

For the Council
The President
P. S. MØLLER

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 (e.g. '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 Decision 2002/675/EC. I declare that the information provided in this invoice is complete and correct.'
-

COUNCIL REGULATION (EC) No 1515/2002

of 16 August 2002

amending Regulation (EC) No 348/2000 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Croatia and Ukraine

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

A. PREVIOUS PROCEDURE

- (1) On 19 November 1998, an anti-dumping proceeding was initiated by the Commission ⁽²⁾ on imports of certain seamless pipes and tubes of iron or non-alloy steel ('the product concerned') originating, *inter alia*, in Ukraine.
- (2) This proceeding resulted in an anti-dumping duty being imposed by Council Regulation (EC) No 348/2000 ⁽³⁾ in February 2000 in order to eliminate the injurious effects of dumping.
- (3) In parallel, by Decision 2000/137/EC ⁽⁴⁾, the Commission accepted a joint price undertaking up to a certain volume threshold incorporating measures aimed at monitoring the undertaking from three Ukrainian exporting producers, Dnepropetrovsk Tube Works ('DTW'), Nikopol Pivdennotrubny Works (transferred later to Nikopolsky Seamless Tube Plant, 'Niko Tube' ⁽⁵⁾) and Nizhnedneprovsky Tube Rolling Plant ('NTRP'). Accordingly, imports of the product concerned from

these exporting producers were exempted from the said anti-dumping duty.

B. VOLUNTARY WITHDRAWAL OF THE JOINT UNDERTAKING

- (4) DTW, Niko Tube and NTRP advised the Commission that they wished to withdraw this joint undertaking. Accordingly, by Commission Decision 2002/669/EC ⁽⁶⁾, the names of these companies have been deleted from the list of companies from which undertakings are accepted in Article 1 of Decision 2000/137/EC.

C. AMENDMENT OF REGULATION (EC) No 348/2000

- (5) In view of the above and pursuant to Article 8(9) of Council Regulation (EC) No 384/96, Article 2(4) of Regulation (EC) No 348/2000 should be amended accordingly, and the exporting producers should be subject to the appropriate rate of anti-dumping duty for the Ukraine as set in Article 1(2) of Regulation (EC) No 348/2000 (38,5 %),

HAS ADOPTED THIS REGULATION:

Article 1

The table in Article 2(4) of Regulation (EC) No 348/2000 shall be replaced by the following table:

'Country	Manufacturer	TARIC additional code
Croatia	Zeljezara Sisak d.d., Sisak	A064'

Article 2

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

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).

⁽²⁾ OJ C 353, 19.11.1998, p. 13.

⁽³⁾ OJ L 45, 17.2.2000, p. 1.

⁽⁴⁾ OJ L 46, 18.2.2000, p. 34.

⁽⁵⁾ OJ C 198, 13.7.2001, p. 2.

⁽⁶⁾ See page 20 of this Official Journal.

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

Done at Brussels, 16 August 2002.

For the Council

The President

P. S. MØLLER

COMMISSION REGULATION (EC) No 1516/2002
of 23 August 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 ⁽¹⁾, as last amended by Regulation (EC) No 1498/98 ⁽²⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 24 August 2002.

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

Done at Brussels, 23 August 2002.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 23 August 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	68,0
	060	44,6
	999	56,3
0707 00 05	052	97,5
	999	97,5
0709 90 70	052	94,9
	999	94,9
0805 50 10	388	59,0
	528	57,5
	999	58,3
0806 10 10	052	79,3
	220	270,7
	400	196,7
	999	182,2
0808 10 20, 0808 10 50, 0808 10 90	388	82,4
	400	96,3
	508	97,3
	512	99,5
	528	51,4
	720	70,9
	800	182,5
	804	92,1
	999	96,6
0808 20 50	052	111,6
	388	74,0
	512	81,5
	528	93,1
0809 30 10, 0809 30 90	999	90,0
	052	109,6
0809 40 05	999	109,6
	052	70,3
	060	68,0
	064	56,5
	066	65,3
	624	184,4
	999	88,9

⁽¹⁾ 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 1517/2002
of 23 August 2002**

laying down detailed rules for the application of Council Regulation (EEC) No 2019/93 introducing specific measures for the smaller Aegean islands, as regards the cultivation of certain agricultural products, potatoes for human consumption and seed potatoes

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Regulation (EEC) No 2019/93 of 19 July 1993 introducing specific measures for the smaller Aegean Islands concerning certain agricultural products ⁽¹⁾, as last amended by Regulation (EC) No 442/2002 ⁽²⁾, and in particular Article 8(2) thereof,

1. The aid provided for in Article 8 of Regulation (EEC) No 2019/93 for the cultivation of potatoes for human consumption falling within CN codes 0701 90 50 and 0701 90 90 and of seed potatoes falling within CN code 0701 10 00 shall be paid on areas:

Whereas:

(1) Article 8 of Regulation (EEC) No 2019/93 states that aid per hectare is to be granted for the cultivation of potatoes for human consumption and seed potatoes up to a maximum area cultivated and harvested of 2 200 hectares per year. Rules for the application of these arrangements were adopted by Commission Regulation (EEC) No 3404/93 ⁽³⁾ laying down rules for the application of Regulation (EEC) No 2019/93. Some technical adjustments should be made to these provisions, in particular as regards the control procedures and the penalties for failure to comply with these provisions and, in the interests of clarity and administrative efficiency, these implementing rules should be replaced in full.

(a) of a minimum size of 0,1 hectares;

(b) sown and given all normal cultivation treatment; and

(c) for which an aid application has been lodged as specified in Article 2 of this Regulation, the application serving as a declaration of area cultivated.

The amount of the aid shall be EUR 603 per hectare.

(2) Before the aid provided for in Article 8 of Regulation (EEC) No 2019/93 can be granted, applications for aid will have to be lodged by interested producers. A final date should be set for the lodging of applications so that the on-the-spot checks required to guarantee proper application of the rules can be carried out. This date should vary according to the purpose for which potatoes are cultivated. The length of the cultivation cycle of the potato dictates that three different final dates for lodging aid applications for this crop should be specified.

2. Payment of the aid for seed potatoes shall also be conditional on certification of the harvested potatoes in accordance with the provisions of Council Directive 66/403/EEC ⁽⁴⁾. If certification is not obtained, the application is deemed to be an application for aid for the cultivation of potatoes for human consumption.

3. In cases where crops do not reach the harvesting stage, the Greek authorities may authorise continuing entitlement to aid where *force majeure* or a natural disaster substantially affects the area cultivated by the applicant.

Cases of *force majeure* or natural disasters shall be notified to the competent Greek authority within ten working days of their occurrence. Proof shall be supplied within one month of that notification.

Greece shall immediately notify the Commission of cases it recognises as being of *force majeure* or natural disaster such as to justify continuing entitlement to the aid.

(3) A system should be introduced to check that the implementing measures put in place by the Greek authorities have been properly carried out. These authorities should make periodic notifications to the Commission.

Article 2

(4) Regulation (EEC) No 3404/93 should therefore be repealed.

1. Producers wishing to receive aid shall lodge an application with the Greek authority.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Hops,

2. Applications shall be made during a period set by the Greek authority ending on:

(a) 30 September of each year, for potatoes to be harvested between 1 November and 31 March of the following year;

⁽¹⁾ OJ L 184, 27.7.1993, p. 1.

⁽²⁾ OJ L 68, 12.3.2002, p. 4.

⁽³⁾ OJ L 310, 14.12.1993, p. 7.

⁽⁴⁾ OJ 125, 11.7.1966, p. 2320/66.

(b) 10 March of each year, for potatoes to be harvested between 1 April and 31 July of the same year;

(c) 15 May of each year, for potatoes to be harvested between 1 August and 31 October of the same year.

3. Except in cases of *force majeure* late application shall occasion a 20 % reduction in aid. Applications more than 20 days late shall be invalid.

4. Applications shall give at least the following information:

(a) the applicant's name, first name and address;

(b) the area cultivated in hectares and ares and its land reference or an indication recognised as equivalent by the authority responsible for checking areas;

(c) the date of planting;

(d) the product concerned and in particular whether seed potatoes or potatoes for human consumption are involved;

(e) the scheduled harvesting date.

5. If the total area covered by aid applications exceeds the maximum area stipulated in Article 8 of Regulation (EEC) No 2019/93, the Greek authorities shall determine a uniform reduction coefficient to be applied to each application.

Article 3

1. Greece shall notify to the Commission, by 30 October of each year, its estimates of total areas for which aid will be applied for in respect of the following year, distinguishing between early, ware and seed potatoes.

2. Greece shall notify to the Commission each year, by 30 August for early potatoes and by 31 December for maincrop and seed potatoes:

(a) the total of the areas for which aid has been requested;

(b) the reduction coefficient applied, if necessary;

(c) the area checked;

(d) the number of irregularities found and the area involved in each Nomos.

Article 4

The national authorities shall take all the steps necessary to ensure that the conditions for granting the aid provided for in Article 8 of Regulation (EEC) No 2019/93 are complied with.

Verification shall be by administrative and on-the-spot checks. The administrative check shall be thorough and include, if appropriate, cross-checks with the data in the integrated administration and control system.

Based on a risk analysis, the national authorities shall perform on-the-spot checks by sampling on a number of aid applications representing at least 10 % of the recipients in each Nomos.

Greece shall determine and notify to the Commission criteria for selecting the areas to be checked. Those criteria must ensure selection of a representative sample.

On-the-spot checks shall include measurement of all areas covered by the application in question. Should a significant number of irregularities be discovered in a Nomos the competent authority shall make additional checks during the year in question and increase the percentage of applications to be checked in the following year in that Nomos.

Article 5

1. Where aid has been paid unduly the competent authorities shall take steps to recover the amount paid, with interest, calculated from the date of payment of the aid to the date of repayment by the beneficiary.

Where the undue payment has been made because of a false declaration, false documents or serious negligence on the part of the recipient, a penalty equal to the amount paid out unduly shall be imposed. The interest rate shall be that applied by the European Central Bank to its principal refinancing transactions published in the C series of the *Official Journal of the European Communities*, in force on the date of the undue payment and increased by three percentage points.

2. The aid recovered shall be paid to the paying authorities or agencies and deducted by them from the expenditure financed by the European Agricultural Guidance and Guarantee Fund.

Article 6

Commission Regulation (EEC) No 3404/93 is hereby repealed.

Article 7

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

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

Done at Brussels, 23 August 2002.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 1518/2002
of 23 August 2002

derogating from Regulation (EC) No 2316/1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 establishing a support system for producers of certain arable crops as regards set-aside in certain Community regions

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops ⁽¹⁾, as last amended by Regulation (EC) No 1038/2002 ⁽²⁾, and in particular Article 9 thereof,

Whereas:

- (1) Commission Regulation (EC) No 2316/1999 ⁽³⁾, as last amended by Regulation (EC) No 327/2002 ⁽⁴⁾, lays down detailed rules for the application of Regulation (EC) No 1251/1999 as regards the conditions for granting area payments and in particular for set-aside.
- (2) Article 19(2) and (3) of Regulation (EC) No 2316/1999 provides that areas set aside must so remain for a period commencing on 15 January at the latest and ending on 31 August at the earliest, and that they may not be used, save as otherwise provided, for agricultural production or any lucrative purpose. Floods in certain Community regions have affected sheltering and supplies of fodder and have made producers vulnerable to heavy losses of income by compelling them to sell their livestock if the normal feed cannot be provided. Temporary alternatives should therefore be offered by authorising the use of land set aside under the arable-crop scheme in duly justified cases having regard to objective criteria and on condition that at least 33 % of the forage area of the holding in question has been flooded, provision nonethe-

less being made for measures to ensure that the land is not used for any lucrative purpose.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the 2002/03 marketing year, notwithstanding Article 19(2) and (3) of Regulation (EC) No 2316/1999, land declared as set aside in the departments listed in the Annex hereto may be used for sheltering and feeding livestock in duly justified cases having regard to objective criteria and on condition that at least 33 % of the forage area of the holdings in question has been flooded.
2. The national authorities shall take all measures necessary to ensure that the land set aside is not used for any lucrative purpose and shall in particular make sure that the products harvested on the land in question are excluded from the aid scheme for dried fodder provided for in Council Regulation (EC) No 603/95 ⁽⁵⁾.

Article 2

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

It shall apply from 9 August 2002.

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

Done at Brussels, 23 August 2002.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 1.

⁽²⁾ OJ L 145, 31.5.2001, p. 16.

⁽³⁾ OJ L 280, 30.10.1999, p. 43.

⁽⁴⁾ OJ L 51, 22.2.2002, p. 14.

⁽⁵⁾ OJ L 63, 21.3.1995, p. 1.

ANNEX

DEUTSCHLAND

Niedersachsen (gesamtes Gebiet)

Sachsen-Anhalt (Landkreise: Stendal, Salzwedel, Ohrekreis, Bördekreis, Halberstadt, Wernigerode, Quedlinburg, Wittenberg, Jerichower Land, Anhalt-Zerbst, Köthen, Bitterfeld, Bernburg)

Mecklenburg-Vorpommern (Landkreise: Ludwigslust, Parchim, Nordwest Mecklenburg, Güstrow, Demmin, Mecklenburg-Strelitz)

Schleswig-Holstein (gesamtes Gebiet)

Brandenburg (gesamtes Gebiet)

Sachsen (gesamtes Gebiet)

Bayern (Regierungsbezirke: Oberbayern, Schwaben, Niederbayern; Landkreise: Regensburg, Cham, Schwandorf)

UNITED KINGDOM

Scotland

Northern Ireland

England:

— Counties: Avon, Durham, Humberside, North Yorkshire, Somerset, West Yorkshire, Wiltshire

IRELAND

ÖSTERREICH

Niederösterreich (gesamtes Bundesland)

Oberösterreich (gesamtes Bundesland)

Salzburg (Politische Bezirke: Flachgau, Hallein)

COMMISSION REGULATION (EC) No 1519/2002

of 23 August 2002

derogating from Council Regulation (EC) No 1251/1999 establishing a support system for producers of certain arable crops, as regards the area payments for certain arable crops and the payments for set-aside for the 2002/2003 marketing year to producers in certain regions of Italy

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops ⁽¹⁾, as last amended by Regulation (EC) No 1038/2001 ⁽²⁾, and in particular Article 9 thereof,

Whereas:

- (1) Under the third indent of the second paragraph of Article 9 of Regulation (EC) No 1251/1999, the Commission may allow Member States, subject to the budgetary situation, to authorise, by way of derogation from Article 8(1), payments prior to 16 November (the normal payment date) in certain regions of up to 50 % of the area payments and the payment for set-aside in years in which exceptional climatic conditions have so reduced yields that producers face severe financial difficulties.
- (2) The production of arable crops in the Italian regions of the 'Mezzogiorno' and the islands of Sicily and Sardinia has been affected by exceptionally dry weather conditions during and after the flowering period. This exceptional situation has resulted in an exceptionally low average yield.
- (3) Some producers are in severe financial difficulties as a result.
- (4) This being the case in Italy, and in view of the budgetary situation, that country should be authorised to make, before 16 November 2002, advance payments of area aid for cereals and advance payments of set-aside aid for the 2002/2003 marketing year.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

1. By way of derogation from Article 8(1) of Regulation (EC) No 1251/1999, an advance payment in respect of the 2002/2003 marketing year amounting up to 50 % of the area payments for cereals, including the supplement for durum wheat, and up to 50 % of the payments for set-aside may be made with effect from 26 August 2002 to Italian producers in the regions Molise, Campania, Puglia, Basilicata, Calabria, Sicilia and Sardegna.
2. The advance payment provided for in paragraph 1 may be paid only if, on the day of payment, the producer in question is found to be eligible for it.
3. Italy shall make the advance payment to producers no later than 15 October 2002.
4. When calculating the final area payment to the producers who receive the advance, the competent authority shall take account of:
 - (a) any reduction in the producer's eligible area;
 - (b) any advance paid under this Regulation.

*Article 2*This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall apply from 26 August 2002.

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

Done at Brussels, 23 August 2002.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 12.

⁽²⁾ OJ L 145, 31.5.2001, p. 16.

COMMISSION REGULATION (EC) No 1520/2002**of 23 August 2002****amending Regulation (EC) No 899/2002 opening an invitation to tender for the refund for the export of common wheat to all third countries except Poland, Estonia, Lithuania and Latvia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1666/2000⁽²⁾,Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as last amended by Regulation (EC) No 1163/2002⁽⁴⁾, and in particular Article 4 thereof,

Whereas:

- (1) Council Regulation (EC) No 1408/2002⁽⁵⁾, establishes certain concessions in the form of Community tariff quotas for certain agricultural products and provides for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Hungary. The abolition of refunds for common wheat exported to Hungary is one of the concessions.

The destinations laid down in Commission Regulation (EC) No 899/2002⁽⁶⁾ should therefore be amended.

- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 899/2002 is amended as follows:

1. the title is replaced by the following:
'opening an invitation to tender for the refund for the export of common wheat to all third countries except Hungary, Poland, Estonia, Lithuania and Latvia';
2. Article 1(2) is replaced by the following:
'2. The invitation to tender shall cover common wheat for export to all third countries except Hungary, Poland, Estonia, Lithuania and Latvia.';
3. the title of Annex I is replaced by the following:
'Weekly tender for the refund for the export of common wheat to all third countries except Hungary, Poland, Estonia, Lithuania and Latvia'.

*Article 2*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 23 August 2002.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 46.

⁽⁵⁾ OJ L 205, 2.8.2002, p. 9.

⁽⁶⁾ OJ L 142, 31.5.2002, p. 11.

COMMISSION REGULATION (EC) No 1521/2002
of 23 August 2002
suspending the buying-in of butter in certain Member States

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Commission Regulation (EC) No 509/2002 ⁽²⁾,

Having regard to Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream ⁽³⁾, as last amended by Regulation (EC) No 1614/2001 ⁽⁴⁾, and in particular Article 2 thereof,

Whereas:

- (1) Article 2 of Regulation (EC) No 2771/1999 lays down that buying-in by invitation to tender is to be opened or suspended by the Commission in a Member State, as appropriate, once it is observed that, for two weeks in succession, the market price in that Member State is below or equal to or above 92 % of the intervention price.

- (2) Commission Regulation (EC) No 1483/2002 suspending the buying-in of butter in certain Member States ⁽⁵⁾ establishes the most recent list of Member States in which intervention is suspended. This list must be adjusted as a result of the market prices communicated by Sweden under Article 8 of Regulation (EC) No 2771/1999. In the interests of clarity, the list in question should be replaced and Regulation (EC) No 1483/2002 should be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Buying-in of butter by invitation to tender as provided for in Article 6(1) of Regulation (EC) No 1255/1999 is hereby suspended in Denmark, Greece, the Netherlands, Austria and Sweden.

Article 2

Regulation (EC) No 1483/2002 is hereby repealed.

Article 3

This Regulation shall enter into force on 24 August 2002.

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

Done at Brussels, 23 August 2002.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 333, 24.12.1999, p. 11.

⁽⁴⁾ OJ L 214, 8.8.2001, p. 20.

⁽⁵⁾ OJ L 221, 17.8.2002, p. 4.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 5 August 2002

amending Decision 2000/137/EC accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Croatia and the Ukraine, and withdrawing an undertaking

(2002/669/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 2238/2000 ⁽²⁾, and in particular Article 8 thereof,

After consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

- (1) On 19 November 1998, an anti-dumping proceeding was initiated by the Commission on imports of certain seamless pipes and tubes of iron or non-alloy steel ⁽³⁾ originating, *inter alia*, in Ukraine.
- (2) This proceeding resulted in an anti-dumping duty being imposed by Council Regulation (EC) No 348/2000 ⁽⁴⁾ in February 2000 in order to eliminate the injurious effects of dumping.
- (3) In parallel, by Decision No 2000/137/EC ⁽⁵⁾, the Commission accepted a joint price undertaking up to a certain volume threshold from three Ukrainian exporters, Dnepropetrovsk Tube Works (DTW), Nikopol Pivdennotrubny Works (transferred later to Nikopolsky Seamless Tube Plant, Niko Tube ⁽⁶⁾) and Nizhnedneprovsky Tube Rolling Plant (NTRP), whose products were exempted from the anti-dumping duty by Article 2(1) of Regulation (EC) No 348/2000.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 257, 11.10.2000, p. 2.

⁽³⁾ OJ C 353, 19.11.1998, p. 13.

⁽⁴⁾ OJ L 45, 17.2.2000, p. 1.

⁽⁵⁾ OJ L 46, 18.2.2000, p. 34.

⁽⁶⁾ OJ C 198, 13.7.2001, p. 2.

B. VOLUNTARY WITHDRAWAL OF THE JOINT UNDERTAKING

- (4) DTW, Niko Tube and NTRP advised the Commission that they wished to withdraw this joint undertaking. Accordingly, the names of DTW, Niko Tube and NTRP, should be deleted from the list of companies whose products are exempted from the anti-dumping duty pursuant to Article 1 of Decision 2000/137/EC.
- (5) In parallel to this Decision, the Council, by Regulation (EC) No 1515/2002 ⁽⁷⁾ has also removed the exemption from the anti-dumping duty granted to DTW, Niko Tube and NTRP, respectively, by amending Article 2 of Regulation (EC) No 348/2000,

HAS ADOPTED THIS DECISION:

Article 1

The joint undertaking accepted from Dnepropetrovsk Tube Works, Nikopol Pivdennotrubny Works (transferred later to Nikopolsky Seamless Tube Plant, 'Niko Tube') and Nizhnedneprovsky Tube Rolling Plant (NTRP) is hereby withdrawn.

Article 2

The table in Article 1 of Decision No 2000/137/EC is replaced by the following table:

'Country	Manufacturer	Taric additional code
Croatia	Zeljezara Sisak d.d., Sisak	A064'

⁽⁷⁾ See page 8 of this Official Journal.

Article 3

This Decision shall be applicable from the day following that of its publication in the *Official Journal of the European Communities*.

Done at Brussels, 5 August 2002.

For the Commission

Pascal LAMY

Member of the Commission

COMMISSION DECISION
of 20 August 2002
amending Council Decision 98/256/EC concerning emergency measures to protect against bovine spongiform encephalopathy

(notified under document number C(2002) 3097)

(Text with EEA relevance)

(2002/670/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 92/118/EEC ⁽²⁾, and in particular Article 10(4) thereof,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽³⁾, as last amended by Directive 92/118/EEC, and in particular Article 9(4) thereof,

Whereas:

- (1) Council Decision 98/256/EC ⁽⁴⁾ of 16 March 1998 concerning emergency measures to protect against bovine spongiform encephalopathy, as last amended by Commission Decision 98/692/EC, is preserved as a transitional measure by Annex XI to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmission spongiform encephalopathies ⁽⁵⁾, as last amended by Regulation (EC) No 270/2002 ⁽⁶⁾.
- (2) In its opinion of 16 May 2002 on the safety of bovine embryos the Scientific Steering Committee (SSC) considers that with regard to the BSE-safety of bovine embryos, there is from a scientific point of view no need for further measures other than those prescribed by the International Embryo Transfer Society Protocols.
- (3) In its opinion of 14 and 15 September 2000 on the export from the United Kingdom of bone-in veal, the SSC considers that there is no evidence that bone-in veal

carcasses from calves of between six and nine months exported under the date-based export scheme (DBES) criteria, as provided for by Decision 98/256/EC, present a risk.

- (4) Following its general session in May 2002, the International Animal Health Code Commission of the World Animal Health Organisation (OIE) is amending the BSE chapter of the Animal Health Code in order to require that fresh meat of bovine origin exported from high risk countries be deboned when derived from animals over nine months and to add bovine embryos to the list of products which can be traded without restriction.
- (5) In March 2002 the United Kingdom submitted a request that the DBES be amended to enable participating companies to slaughter and process DBES ineligible bovine animals as well as DBES eligible bovine animals provided that adequate separation arrangements were in place.
- (6) In an inspection mission carried out in Great Britain from 27 to 31 May 2002, inspectors from the Food and Veterinary Office were presented with an amended protocol for required methods and operating procedures for the DBES. Their conclusion was that the proposed protocol, if properly adhered to, would provide for appropriate official control of DBES eligible animals and goods to be carried out. Certain recommendations were made regarding improving eligibility checks on bovine animals entering the scheme. In its reply to the mission report, the United Kingdom undertook to incorporate the recommendations into the DBES protocol.
- (7) Commission Decision 1999/514/EC ⁽⁷⁾ sets the date on which dispatch from the United Kingdom of bovine products under the date-based export scheme may commence by virtue of Article 6(5) of Decision 98/256/EC; for the sake of clarity, it is appropriate to introduce this provision in the later Decision and to repeal decision 1999/514/EC accordingly.

⁽¹⁾ OJ L 224, 18.8.1990, p. 29.

⁽²⁾ OJ L 62, 15.3.1993, p. 49.

⁽³⁾ OJ L 395, 30.12.1989, p. 13.

⁽⁴⁾ OJ L 113, 15.4.1998, p. 32.

⁽⁵⁾ OJ L 328, 4.12.1998, p. 28.

⁽⁶⁾ OJ L 147, 31.5.2001, p. 1.

⁽⁷⁾ OJ L 45, 15.2.2002, p. 4.

- (8) Decision 98/256/EC should therefore be amended accordingly.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee for the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Decision 98/256/EC is amended as follows:

1. Article 1 is replaced by the following:

'Article 1

Pending an overall examination of the situation, and notwithstanding Community provisions adopted to protect against BSE, the United Kingdom shall ensure that the following are not dispatched from its territory to other Member States or to third countries:

- (a) live bovine animals;
- (b) meat meal, bone meal, and meat-and-bone meal of mammalian origin;
- (c) animal feed and fertilisers containing material referred to in (b).'
2. Article 6 is replaced by the following:

'Article 6

1. By way of derogation from Article 3, the United Kingdom may authorise the dispatch to other Member States or third countries of the following products derived from bovine animals born and reared in the United Kingdom which have been slaughtered in the United Kingdom in accordance with the conditions laid down in Article 7, Articles 9 to 12 and Annex II, or as appropriate, Annex III:

- (a) "fresh meat" as defined by Council Directive 64/433/EEC⁽¹⁾;
- (b) "minced meat" and "meat preparations" as defined by Council Directive 94/65/EC^(*);
- (c) "meat products" as defined by Council Directive 77/99/EEC^(**);
- (d) food which is destined for domestic carnivores.
2. The fresh meat referred to in paragraph 1(a), if obtained from animals more than nine months old, shall be deboned and all adherent tissues including obvious nervous and lymphatic tissues shall be removed.
3. Cutting, storage and transport of the fresh meat referred to in paragraph 1(a) shall be carried out in accordance with the conditions laid down in Article 7, Articles 9

to 12 and Annex II or, as appropriate, Annex III. The fresh meat may be used for the production of products referred to in (b), (c) and (d) in accordance with the conditions laid down in this article, in Article 7, Articles 9 to 12 and Annex II or, as appropriate, Annex III.

4. The bovine animals referred to in paragraph 1 shall be slaughtered at different times from cattle which do not meet the requirements of Annex II, or as appropriate, Annex III. There shall be a secure sorting and separation of live animals prior to slaughter to ensure that only eligible animals enter the slaughter line during time periods dedicated to such slaughter. Before the commencement of a period of slaughter of eligible animals, the slaughter hall must first be cleansed and disinfected.

5. The dispatch of products referred to in Annex III may commence 1 August 1999.

⁽¹⁾ OJ L 195, 28.7.1999, p. 42.

^(*) OJ 121, 29.7.1964, p. 2012/64.

^(**) OJ L 368, 31.12.1994, p. 10.'

3. Article 10, paragraph 1(b) is replaced by the following:

- '(b) (i) non-packaged products are stored in cold stores in chambers which are not used at the same time for storing any bovine products which do not comply with the conditions laid down in this Article, in Articles 6, 9, 11, 12 and 13 and are kept under the seal of the competent authority when the latter is not present;
- (ii) packaged products are stored in cold stores so as to provide a clear and effective segregation from bovine products which do not comply with the conditions laid down in this Article and in Articles 6, 9, 11, 12 and 13;'

4. The Annexes are amended as set out in the Annex to this Decision.

Article 2

Decision 1999/514/EC is repealed.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 20 August 2002.

For the Commission

David BYRNE

Member of the Commission

ANNEX

1. In Annex II, point 1 is replaced by the following:
 - '1. Fresh meat, and products referred to in Article 6(1)(b), (c) and (d) from that meat, derived from bovine animals slaughtered in Northern Ireland, may be dispatched from the United Kingdom in application of the provisions of Article 6 when obtained from ECHS-eligible animals which originate from ECHS-eligible herds. If obtained from animals more than nine months old, the fresh meat shall be deboned and all adherent tissues including obvious nervous and lymphatic tissues shall be removed.'
 2. In Annex II, point 9 is replaced by the following:
 - '9. Slaughter of ECHS-eligible animals must take place in slaughterhouses which operate a system of time separation as set out in Article 6(4).'
 3. Annex III is amended as follows:
 - a) point 1 is replaced by the following:
 - '1. Fresh meat, and products referred to in Article 6(1)(b), (c) and (d) from that meat, derived from bovine animals slaughtered in the United Kingdom, may be dispatched from the United Kingdom in application of the provisions of Article 6 when obtained from DBES-eligible animals born after 1 August 1996. If obtained from animals more than nine months old, the fresh meat shall be deboned and all adherent tissues including obvious nervous and lymphatic tissues shall be removed.'
 - b) point 5 is replaced by the following:
 - '5. Slaughter of DBES-eligible animals must take place in slaughterhouses which operate a system of time separation as described in Article 6(4). Slaughter in Northern Ireland of DBES-eligible animals originating from Great Britain, or vice versa, is only authorised if access to all relevant data is ensured.'
-

COMMISSION DECISION
of 20 August 2002
amending Decision 97/569/EC to include a Romanian establishment producing wild game meat products

(notified under document number C(2002) 3102)

(Text with EEA relevance)

(2002/671/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 95/408/EC of 22 June 1995 on the conditions for drawing up, for an interim period, provisional lists of third country establishments from which Member States are authorised to import certain products of animal origin, fishery products or live bivalve molluscs⁽¹⁾, as last amended by Decision 2001/4/EC⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) Provisional lists of third country establishments from which the Member States authorise imports of meat products have been drawn up by Commission Decision 97/569/EC⁽³⁾, as last amended by Decision 2002/74/EC⁽⁴⁾.
- (2) The Commission has received from Romania details of a wild game meat product establishment, with guarantees that it fully meets the relevant Community health requirements and that should this establishment fail to do so, its export activities to the European Community would be suspended.
- (3) A provisional list of establishments producing wild game meat products may thus be drawn up in respect of

Romania, and Decision 97/569/EC should therefore be amended accordingly.

- (4) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

The text in the Annex to this Decision is added to the Annex to Decision 97/569/EC.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 20 August 2002.

For the Commission

David BYRNE

Member of the Commission

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

País: Rumania — Land: Rumænien — Land: Rumänien — Κράτος: Ρουμανία — Country: Romania — Pays: Roumanie — Paese: Romania — Land: Roemenië — País: Roménia — Maa: Romania — Land: Rumänien

1	2	3	4	5	6
A-13	SC FACOS SA	Zona Industriala Scheia	Suceava	Processing plant	Wild game meat products

⁽¹⁾ OJ L 243, 11.10.1995, p. 17.

⁽²⁾ OJ L 2, 5.1.2001, p. 21.

⁽³⁾ OJ L 234, 26.8.1997, p. 16.

⁽⁴⁾ OJ L 33, 2.2.2002, p. 29.

COMMISSION DECISION
of 21 August 2002
amending Decision 97/468/EC to include an establishment from Greenland producing wild game meat

(notified under document number C(2002) 3094)

(Text with EEA relevance)

(2002/672/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 95/408/EC of 22 June 1995 on the conditions for drawing up, for an interim period, provisional lists of third country establishments from which Member States are authorised to import certain products of animal origin, fishery products or live bivalve molluscs ⁽¹⁾, as last amended by Decision 2001/4/EC ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) Provisional lists of establishments producing wild game meat have been drawn up by Commission Decision 97/468/EC ⁽³⁾ on drawing up provisional lists of third country establishments from which Member States authorise imports of wild game meat.
- (2) Greenland has sent a list of establishments producing wild game meat for which the responsible authorities certify that the establishments are in accordance with the Community rules.
- (3) A provisional list of establishments producing wild game meat can thus be drawn up for Greenland.

- (4) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

The text of the Annex to this Decision is added to the Annex to Decision 97/468/EC.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 21 August 2002.

For the Commission

David BYRNE

Member of the Commission

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

País: Groenlandia — Land: Grønland — Land: Grönland — Κράτος: Γροιλανδία — Country: Greenland — Pays: Groenland — Paese: Groenlandia — Land: Groenland — País: Gronelândia — Maa: Grönlanti — Land: Grönland

1	2	3	4	5	6
4385	NUKA A/S	Kangerlussuaq	Kangerlussuaq	PH, CS	a (musk ox, reindeer)

⁽¹⁾ OJ L 243, 11.10.1995, p. 17.

⁽²⁾ OJ L 2, 5.1.2001, p. 21.

⁽³⁾ OJ L 199, 26.7.1997, p. 62.

COMMISSION DECISION

of 22 August 2002

approving the programmes for the implementation of Member States' surveys for avian influenza in poultry and wild birds

(notified under document number C(2002) 3112)

(2002/673/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, as last amended by Decision 2001/572/EC ⁽²⁾, and in particular Article 20 thereof,

Whereas:

- (1) Council Decision 90/424/EEC provides for financial aid from the Community for the undertaking of technical and scientific measures necessary for the development of Community veterinary legislation and for veterinary education or training.
- (2) By Commission Decision 2002/.../EC ⁽³⁾ Member States agreed to carry out a survey for avian influenza in poultry and wild birds. These surveys shall investigate the presence of infections in poultry, which could lead to a review of current legislation and contribute to the knowledge of the possible threats for animals and humans from the wildlife.
- (3) That Decision set the Community's financial contribution to these surveys at the rate of 50 % of the costs incurred by the Member States for the sampling and analysing of samples up to a maximum of EUR 500 000 for all Member States in total.
- (4) Programmes submitted by the Member States have been studied by the Commission and shall be approved individually by the Community granting financial participation to each approved programme.
- (5) Furthermore, it seems appropriate to lay down standard forms for reporting the results of the surveys and for the financial claim for co-financing of the costs incurred by Member States for the implementation of the programme.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

1. The programmes for the implementation of surveys for avian influenza in poultry and birds are hereby approved for the Member States listed in Annex I for the period as specified.
2. Financial participation by the Community shall be granted at the rate of 50 % of the costs for sampling and analysing of samples by each Member State up to a maximum laid down in Annex I.
3. The Community shall pay the financial contribution for the programmes referred to under paragraph 1 provided that by 30 September 2003 at the latest, the Member State concerned:
 - (a) provides satisfactory evidence to the Commission that it has brought into force the laws, regulations or administrative provisions necessary to implement the programme,
 - (b) forwards a final report on the technical execution of the programme and the results attained specified in Annexes II, III and IV accompanied by justifying evidence as to the costs incurred during the period of the programme as laid down in Annex V,
 - (c) provides satisfactory evidence to the Commission that it has implemented the programme efficiently in accordance with the guidelines set out in the Annex to Decision 2002/649/EC.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 22 August 2002.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

⁽²⁾ OJ L 203, 28.7.2001, p. 16.

⁽³⁾ OJ L 213, 9.8.2002, p. 38.

ANNEX I

List of Member States, for which programmes for avian influenza surveys in poultry and wild birds are approved

Member States	Period	Maximum amount
Italy — 1 ⁽¹⁾	1. August 2002 to 30. June 2003	EUR 31 800

⁽¹⁾ In Italy the regions Lombardy and Veneto.

ANNEX IV

FINAL REPORT ON DATA ON WILD BIRDS

Virological investigation according to guidelines point B

Member State:	Date:	Reporting period from:	to:		
Region (4)	Species of wild birds sampled	Total number of samples taken for virological examination	Total number of positive samples	Number of positive samples for subtype H 5	Number of positive samples for subtype H 7
Total					

(4) Region as defined in the approved programme of the Member State or indication of location of bird watching station(s).

ANNEX V

FINAL FINANCIAL REPORT AND PAYMENT APPLICATION

One table per survey in poultry/backyard flocks/wild birds ^(a)

Member State: Date: Reporting period from: to:

Measures eligible for co-financing ^(b)		
Methods of laboratory analysis	Number tests performed per method	Costs
Serological pre-screening ^(c)		
Haemagglutination-inhibition-test (HI) for H5/H7		
Virus isolation test		
Other measures to be covered	Specify activities	
Sampling		
Others		
Total		

^(a) Strike through as appropriate.^(b) Data to be given in national currency, VAT excluded.^(c) Please indicate test used.

Herewith I certify that the data given above are correct and that no other Community contribution was asked for these measures.

.....
(Place, date)

.....
(Signature)

COMMISSION DECISION

of 22 August 2002

recognising Slovakia as being free from *Erwinia amylovora* (Burr.) Winsl. et al.

(notified under document number C(2002) 3121)

(2002/674/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ⁽¹⁾, as last amended by Commission Directive 2002/36/EC ⁽²⁾, and in particular Annex III, Part B, point 1 thereof,

Whereas:

- (1) Under Directive 2000/29/EC, plants and live pollen for pollination of: *Chaenomeles* Lindl., *Cotoneaster* Ehrh., *Crataegus* L., *Cydonia* Mill., *Eriobotrya* Lindl., *Malus* Mill., *Mespilus* L., *Pyracantha* Roem., *Pyrus* L., *Sorbus* L. other than *Sorbus intermedia* (Ehrh.) Pers., *Stranvaesia* Lindl., other than fruit and seeds, originating in third countries other than those recognised as being free from *Erwinia amylovora* (Burr.) Winsl. et al. (hereinafter: 'the harmful organism') may not be introduced into certain protected zones of the Member States.
- (2) In 1999, Slovakia requested to be recognised as being free from the harmful organism.
- (3) It appears from official information supplied by Slovakia, and from information collected during a mission carried out there in April 2000 by the Food and Veterinary Office, that the harmful organism does not occur in Slovakia, and that Slovakia has maintained a strict control, inspection and testing procedure for the harmful organism.
- (4) It can therefore be established that there is no risk of the harmful organism spreading.

- (5) This Decision is without prejudice to any subsequent findings that may show that the harmful organism is present in Slovakia. The Commission will request Slovakia to supply on a yearly basis all technical information available that is necessary to assess the aforementioned situation.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

Slovakia is recognised as being free from *Erwinia amylovora* (Burr.) Winsl. et al.

The Commission will request Slovakia to supply on a yearly basis all technical information available that is necessary to assess the aforementioned situation.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 22 August 2002.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.⁽²⁾ OJ L 116, 3.5.2002, p. 16.

COMMISSION DECISION

of 23 August 2002

accepting an undertaking offered in connection with the anti-dumping proceeding concerning imports of certain tube and pipe fittings, of iron or steel, originating in the Czech Republic, Malaysia, the Republic of Korea, Russia and Slovakia

(2002/675/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 2238/2000, ⁽²⁾ and in particular Article 8 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) By Regulation (EC) No 358/2002 ⁽³⁾, the Commission imposed provisional anti-dumping duties on imports into the Community of certain tube and pipe fittings, of iron or steel, originating in the Czech Republic, Malaysia, the Republic of Korea, Russia and Slovakia.
- (2) Following the adoption of the provisional anti-dumping measures, the Commission continued the investigation of dumping, injury and Community interest. The definitive findings and conclusions of the investigation are set out in Council Regulation (EC) No 1514/2002 ⁽⁴⁾ imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel, originating in the Czech Republic, Malaysia, the Republic of Korea, Russia and Slovakia.
- (3) The investigation confirmed the provisional findings of injurious dumping relating to imports originating in the abovementioned countries.

B. UNDERTAKING

- (4) Subsequent to the adoption of provisional anti-dumping measures, one cooperating exporting producer in the Czech Republic offered a price undertaking in accordance with Article 8(1) of Regulation (EC) No 384/96 (the 'Basic Regulation'). In that undertaking, it has offered to sell the product concerned at or above price levels which eliminate the injurious effects of dumping.

- (5) The company will also provide the Commission with regular and detailed information concerning its exports to the Community, meaning that the undertaking can be monitored effectively by the Commission. Furthermore, the sales structure of this exporting producer is such that the Commission considers that the risk of circumventing the undertaking is limited.
- (6) In view of this, the undertaking offered is considered acceptable.
- (7) In order to enable the Commission to monitor effectively the company's compliance with its undertaking, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty will be conditional on the presentation of an invoice containing at least the items of information listed in the Annex to Regulation (EC) 1514/2002. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that shipments correspond to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty will instead be payable.
- (8) In the event of a breach or withdrawal of the undertaking, or a suspected breach, an anti-dumping duty may be imposed pursuant to Article 8(9) and (10) of the basic Regulation,

HAS DECIDED AS FOLLOWS:

Article 1

The undertaking offered by the producer mentioned below, in connection with the anti-dumping proceeding concerning imports of certain tube and pipe fittings of iron or steel, originating in the Czech Republic, Malaysia, the Republic of Korea, Russia and Slovakia, is hereby accepted.

Country	Company	TARIC additional code
Czech Republic	Bovex s.r.o, Hercikova 4, 612 000 Brno, Czech Republic	A387

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 257, 11.10.2000, p. 4.

⁽³⁾ OJ L 56, 27.2.2002, p. 4.

⁽⁴⁾ See page 1 of this Official Journal.

Article 2

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

Done at Brussels, 23 August 2002.

For the Commission

Pascal LAMY

Member of the Commission
