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Legislation

Contents

I Acts whose publication is obligatory

- Commission Regulation (EC) No 706/2003 of 23 April 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables 1
- ★ **Commission Regulation (EC) No 707/2003 of 22 April 2003 establishing unit values for the determination of the customs value of certain perishable goods 3**
- ★ **Commission Regulation (EC) No 708/2003 of 23 April 2003 imposing a provisional countervailing duty on imports of certain electronic microcircuits known as DRAMs (dynamic random access memories) originating in the Republic of Korea 7**

II Acts whose publication is not obligatory

Council

2003/285/EC:

- ★ **Council Decision of 18 March 2003 concerning the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions 32**

Protocol adjusting the trade aspects of the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, to take account of the outcome of negotiations between the Parties on new mutual agricultural concessions 38

2003/286/EC:

- ★ **Council Decision of 8 April 2003 on the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, to take account of the outcome of negotiations between the Parties on new mutual agricultural concessions 60**

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(Continued overleaf)

EN

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

The titles of all other acts are printed in bold type and preceded by an asterisk.

Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, to take account of the outcome of negotiations between the Parties on new mutual agricultural concessions 65

Commission

2003/287/EC:

*** Commission Decision of 14 April 2003 establishing the ecological criteria for the award of the Community eco-label to tourist accommodation service ⁽¹⁾ (notified under document number C(2003) 235) 82**

*** Notice to readers (see page 98)**

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 706/2003
of 23 April 2003
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 1947/2002 ⁽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 April 2003.

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

Done at Brussels, 23 April 2003.

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

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 299, 1.11.2002, p. 17.

ANNEX

to the Commission Regulation of 23 April 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables

<i>(EUR/100 kg)</i>		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	127,1
	204	73,8
	212	120,5
	999	107,1
0707 00 05	052	119,3
	068	115,0
	096	51,8
	204	32,5
	999	79,7
0709 90 70	052	87,1
	204	101,8
	999	94,4
0805 10 10, 0805 10 30, 0805 10 50	052	77,5
	204	38,7
	220	36,6
	520	38,3
	600	40,2
	624	56,5
	999	48,0
0805 50 10	400	65,0
	999	65,0
0808 10 20, 0808 10 50, 0808 10 90	060	64,5
	388	80,3
	400	119,9
	404	112,7
	508	89,8
	512	79,7
	524	97,4
	528	74,4
	720	114,4
	804	123,7
	999	95,7
	0808 20 50	388
512		83,3
528		69,9
999		77,0

⁽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 707/2003
of 22 April 2003
establishing unit values for the determination of the customs value of certain perishable goods

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council ⁽²⁾,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾, as last amended by Regulation (EC) No 444/2002 ⁽⁴⁾, and in particular Article 173(1) thereof,

Whereas:

- (1) Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish unit values for the products referred to in the classification in Annex 26 to that Regulation.

- (2) The result of applying the rules and criteria laid down in the abovementioned Articles to the elements communicated to the Commission in accordance with Article 173(2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 173(1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 25 April 2003.

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

Done at Brussels, 22 April 2003.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 302, 19.10.1992, p. 1.

⁽²⁾ OJ L 311, 12.12.2000, p. 17.

⁽³⁾ OJ L 253, 11.10.1993, p. 1.

⁽⁴⁾ OJ L 68, 12.3.2002, p. 11.

ANNEX

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
1.10	New potatoes 0701 90 50	41,19	305,87	377,55	28,49
1.30	Onions (other than seed) 0703 10 19	37,44	278,01	343,16	25,90
1.40	Garlic 0703 20 00	155,81	1 156,94	1 428,06	107,77
1.50	Leeks ex 0703 90 00	39,43	292,79	361,40	27,27
1.60	Cauliflowers 0704 10 00	—	—	—	—
1.80	White cabbages and red cabbages 0704 90 10	70,83	525,98	649,23	49,00
1.90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) <i>Alef</i> var. <i>italica</i> Plenck) ex 0704 90 90	61,43	456,14	563,04	42,49
1.100	Chinese cabbage ex 0704 90 90	66,82	496,15	612,43	46,22
1.110	Cabbage lettuce (head lettuce) 0705 11 00	—	—	—	—
1.130	Carrots ex 0706 10 00	37,10	275,48	340,04	25,66
1.140	Radishes ex 0706 90 90	92,37	685,88	846,62	63,89
1.160	Peas (<i>Pisum sativum</i>) 0708 10 00	461,78	3 428,90	4 232,45	319,41
1.170	Beans:				
1.170.1	— Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 00	170,42	1 265,41	1 561,95	117,88
1.170.2	— Beans (<i>Phaseolus</i> ssp. <i>vulgaris</i> var. <i>Compressus</i> Savi) ex 0708 20 00	211,42	1 569,88	1 937,77	146,24
1.180	Broad beans ex 0708 90 00	—	—	—	—
1.190	Globe artichokes 0709 10 00	—	—	—	—
1.200	Asparagus:				
1.200.1	— green ex 0709 20 00	406,56	3 018,87	3 726,32	281,22
1.200.2	— other 0709 20 00	427,27	3 172,65	3 916,14	295,54
1.210	Aubergines (eggplants) 0709 30 00	94,61	702,49	867,11	65,44

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
1.220	Ribbed celery (<i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	66,81	496,07	612,33	46,21
1.230	Chantarelles 0709 59 10	809,36	6 009,82	7 418,19	559,83
1.240	Sweet peppers 0709 60 10	193,49	1 436,75	1 773,44	133,84
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	113,54	843,11	1 040,68	78,54
2.10	Chestnuts (<i>Castanea</i> spp.), fresh ex 0802 40 00	—	—	—	—
2.30	Pineapples, fresh ex 0804 30 00	162,02	1 203,05	1 484,97	112,07
2.40	Avocados, fresh ex 0804 40 00	231,53	1 719,23	2 122,12	160,15
2.50	Guavas and mangoes, fresh ex 0804 50 00	115,17	855,20	1 055,61	79,66
2.60	Sweet oranges, fresh:				
2.60.1	— Sanguines and semi-sanguines 0805 10 10	—	—	—	—
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamoutis, ovalis, trovita and hamlins 0805 10 30	—	—	—	—
2.60.3	— Others 0805 10 50	—	—	—	—
2.70	Mandarins (including tangerines and satsumas), fresh; clementines, wilkings and similar citrus hybrids, fresh:				
2.70.1	— Clementines ex 0805 20 10	93,49	694,22	856,90	64,67
2.70.2	— Monreales and satsumas ex 0805 20 30	90,99	675,61	833,94	62,94
2.70.3	— Mandarines and wilkings ex 0805 20 50	67,41	500,55	617,85	46,63
2.70.4	— Tangerines and others ex 0805 20 70 ex 0805 20 90	55,86	414,76	511,96	38,64
2.85	Limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>), fresh 0805 50 90	74,66	554,38	684,29	51,64
2.90	Grapefruit, fresh:				
2.90.1	— white ex 0805 40 00	62,23	462,05	570,33	43,04
2.90.2	— pink ex 0805 40 00	64,73	480,64	593,27	44,77
2.100	Table grapes 0806 10 10	156,31	1 160,68	1 432,68	108,12
2.110	Water melons 0807 11 00	95,85	711,72	878,51	66,30

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
2.120	Melons (other than water melons):				
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onteniente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	73,66	546,97	675,15	50,95
2.120.2	— Other ex 0807 19 00	157,99	1 173,11	1 448,02	109,28
2.140	Pears				
2.140.1	— Pears — nashi (<i>Pyrus pyrifolia</i>), Pears — Ya (<i>Pyrus bretschneideri</i>) ex 0808 20 50	149,93	1 113,29	1 374,18	103,71
2.140.2	— Other ex 0808 20 50	77,23	573,46	707,85	53,42
2.150	Apricots 0809 10 00	430,13	3 193,89	3 942,36	297,52
2.160	Cherries 0809 20 95 0809 20 05	482,89	3 585,65	4 425,93	334,02
2.170	Peaches 0809 30 90	368,70	2 737,75	3 379,32	255,03
2.180	Nectarines ex 0809 30 10	138,76	1 030,36	1 271,82	95,98
2.190	Plums 0809 40 05	134,48	998,59	1 232,60	93,02
2.200	Strawberries 0810 10 00	110,16	817,98	1 009,67	76,20
2.205	Raspberries 0810 20 10	361,18	2 681,91	3 310,40	249,83
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	2 297,10	17 056,89	21 054,07	1 588,90
2.220	Kiwi fruit (<i>Actinidia chinensis</i> Planch.) 0810 50 00	99,84	741,35	915,08	69,06
2.230	Pomegranates ex 0810 90 95	291,87	2 167,25	2 675,13	201,89
2.240	Khakis (including sharon fruit) ex 0810 90 95	249,90	1 855,62	2 290,47	172,86
2.250	Lychees ex 0810 90 30	179,87	1 335,58	1 648,57	124,41

COMMISSION REGULATION (EC) No 708/2003

of 23 April 2003

imposing a provisional countervailing duty on imports of certain electronic microcircuits known as DRAMs (dynamic random access memories) originating in the Republic of Korea

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community⁽¹⁾, as amended by Regulation (EC) No 1973/2002⁽²⁾, and in particular Article 12 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) In July 2002, the Commission announced, by notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of an anti-subsidy proceeding with regard to imports into the Community of certain electronic microcircuits known as DRAMs (dynamic random access memories) originating in the Republic of Korea (Korea) and commenced an investigation.
- (2) The proceeding was initiated as a result of a complaint lodged in June 2002 by Infineon Technologies AG (the complainant) representing a major proportion of the total Community production of DRAMs. The complaint contained evidence of subsidisation of the product concerned and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding. The Complaint was supported by Micron Europe Ltd, the only other Community producer of DRAMs.
- (3) The Commission officially advised the Government of Korea (GOK), the complainant, the other Community producer, the exporting producers, the importers and users known to be concerned 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 in the notice of initiation.
- (4) The Government of Korea, the exporting producers, the complainant, as well as the other Community producer, importers and users, made their views known in writing. All parties who so requested within the above time limit and indicated that there were particular reasons why they should be heard were granted a hearing.

(5) The Commission sent questionnaires to all parties known to be concerned and received replies from the GOK and a number of Korean banks as well as from a number of companies in the Community.

(6) The Commission sought and verified all the information it deemed necessary for the purpose of a preliminary determination of subsidy, injury and Community interest. In this regard, the Commission carried out verification visits at the premises of the GOK in Seoul and the following companies:

(a) *Exporting producers in Korea*

- Hynix Semiconductor Inc., Seoul, Korea,
- Samsung Electronics Co. Ltd, Seoul, Korea;

(b) *Banks in Korea*

- Korea Development Bank (KDB), Seoul Korea,
- Korea Exchange Bank (KEB), Seoul, Korea,
- Chohung Bank, Seoul, Korea,
- Woori Bank (WB), Seoul, Korea;

(c) *Other institutions in Korea*

- Financial Supervisory Service (FSS), Seoul, Korea,
- Financial Supervisory Commission (FSC), Seoul, Korea,
- Korea Export Insurance Corporation (KEIC), Seoul, Korea,
- Korea Deposit Insurance Corporation (KDIC), Seoul, Korea;

(d) *Producers in the Community*

- Infineon Technologies AG, Munich, Germany,
- Micron Europe Ltd, East Kilbride, United Kingdom;

(e) *Importers in the Community related to Korean exporting producers*

- Hynix Semiconductor UK Limited, Weybridge, United Kingdom,
- Hynix Semiconductor Deutschland GmbH, Raunheim, Germany.

(7) The investigation of subsidisation covered the period from 1 January 2001 to 31 December 2001 (investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 1998 to the end of the investigation period (period considered).

⁽¹⁾ OJ L 288, 21.10.1997, p. 1.

⁽²⁾ OJ L 305, 7.11.2002, p. 4.

⁽³⁾ OJ C 177, 25.7.2002, p. 2.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

- (8) The product under investigation (product concerned) is certain electronic microcircuits known as dynamic random access memories (DRAMs), of all types, densities and variations, whether assembled, in processed wafer or chips (dies), manufactured using variations of metal oxide-semiconductors (MOS) process technology, including complementary MOS types (CMOS), of all densities (including future densities), irrespective of access speed, configuration, package or frame etc. This also includes DRAMs presented in (non-customised) memory modules or (non-customised) memory boards, or in some other kind of aggregate form, provided the main purpose of which is to provide memory.
- (9) The product concerned is currently classifiable within CN codes 8542 21 11 (until 31.12.2001 within CN code 8542 13 11), 8542 21 13 (until 31.12.2001 within CN code 8542 13 13), 8542 21 15 (until 31.12.2001 within CN code 8542 13 15), 8542 21 17 (until 31.12.2001 within CN code 8542 13 17), 8542 21 01 (until 31.12.2001 within CN code 8542 13 01), 8542 21 05 (until 31.12.2001 within CN code 8542 13 05), 8548 90 10, ex 8473 30 10 and ex 8473 50 10.

2. Like product

- (10) The investigation showed that DRAMs produced and sold on the domestic market of Korea have similar basic physical and technical characteristics and uses compared with that exported from this country to the Community. Similarly, DRAMs manufactured by the complainant and the other Community producer and sold on the Community market have similar basic physical and technical characteristics and uses when compared to those exported to the Community from the country in question.
- (11) Consequently, DRAMs sold on the domestic market of Korea and exported to the Community as well as DRAMs produced and sold in the Community are considered as a like product within the meaning of Article 1(5) of Regulation (EC) No 2026/97 (basic Regulation).

C. SUBSIDIES

1. Introduction

- (12) On the basis of the information contained in the complaint and the replies to the Commission's questionnaires, the following measures and schemes, which

allegedly involved the granting of subsidies, were investigated:

1. tax benefits in the form of tax reserves, tax exemption and tax credit;
 2. syndicated loan of KRW 800 billion (!);
 3. Korea Export Insurance Corporation (KEIC) guarantee for export credits in the amount of USD 600 million;
 4. Seoul Guarantee Insurance Corporation (SGICO) guarantee for bonds to be purchased by investment trusts;
 5. bond purchase by creditor banks in the amount of KRW one trillion;
 6. first roll-over of debt in May 2001;
 7. Korea Development Bank (KDB) Debenture Programme;
 8. the October 2001 rescue package, consisting of debt to equity swap and the second roll-over of debt;
 9. loan of KRW 658 billion.
- (13) As regards the tax reserves, the legal basis for the reserves for export losses, overseas market development, overseas investment losses and technology development is the Tax Exemption and Reduction Control Law (TERCL). This law was replaced by the Special Tax Treatment Control Law (STTCL) on 1 January 1999. STTCL is the legal basis for the tax exemption, tax credit, the reserve for research and human resources development and the reserve for losses on the disposal of treasury stock.
- (14) The legal basis for the KDB Debenture Programme is Article 18(4) of the Korea Development Bank Act (KDBA). The programme was announced in December 2000 by GOK with the purpose of supporting the bond market. The programme lasted only for the year 2001 and the selection of participating companies was carried out in January 2001. Under the programme, KDB was refinancing maturing bonds of companies which were selected to participate in the programme.
- (15) Measures 2, 5, 6 and 9 listed above are ad hoc measures taken by the creditor banks of Hynix Semiconductor Inc. (Hynix). In addition to the creditor banks, other creditor financial institutions were also involved in measure 8.

(!) The exchange rate as of 31.12.2001: USD 1 = Korean won 1 326.

(16) According to Article 2 of the basic Regulation, a subsidy is deemed to exist when there is a *financial contribution by a government* conferring a *benefit* to the recipient. Furthermore, only specific subsidies can be countervailed in accordance with Article 3 of the basic Regulation. In many of the schemes examined, the issue of whether the financial contribution has been made by the government is disputed. Therefore, for reasons of economy, the Commission will generally examine the issue of benefit first; only if a benefit is found will the question be considered whether there is a financial contribution by the government and specificity.

2. Tax reserves, tax exemption and tax credit

(a) Tax reserves under TERCL

(17) TERCL was enacted in 1964 and expired on 31 December 1998. The following tax reserves investigated had TERCL as a legal basis: reserve for export losses (Article 16), overseas market development (Article 17), overseas investment losses (Article 23) and technology development (Article 8). These provisions provided two to three years grace periods for the reserves concerned before they were to be added back to the taxable income.

(18) The reserves enable the beneficiaries to defer taxes and thus confer a benefit to the extent that interest is not collected during the grace period.

(19) During the investigation, the status and historical movements of the reserves in the tax returns of the exporting producers were examined. It was confirmed that the reserves under TERCL were exhausted before the IP and that there were no outstanding balances left at the end of 2001. Consequently, no benefit provided by these reserves was found.

(b) Tax reserves, tax exemption and tax credit under STTCL

(20) STTCL entered into force on 1 January 1999 replacing TERCL. The following tax exemption, tax credit and tax reserves investigated have STTCL as a legal basis: tax exemption for income from technology transfer (Article 12), tax credit for research and human resources development expenses (Article 10), reserve for research and human resources development (Article 9) and reserve for loss on disposal of treasury stock (Article 104(3)). Article

9 provides for a three-year grace period for the reserve concerned, whereas Article 104(3) provides for up to five years grace period before the reserve in question is to be added back to the taxable income.

(21) The reserves constitute a tax deferral system as under the TERCL. The tax exemption and tax credit confer a benefit in the form of forgone or not collected government revenue that is otherwise due.

(22) As regards Hynix, it was confirmed during the investigation that there were no reserves with outstanding balances left at the end of 2001 and no tax exemption or credit. Consequently, no benefit provided under STTCL was found.

(23) As regards Samsung Electronics Co. Ltd (Samsung), it was confirmed during the investigation that the company received a tax exemption for income from technology transfer, a tax credit for research and human resources development expenses, and benefits under the reserves for research and human resources development and loss on disposal of treasury stock.

(c) Calculation of the amount of subsidy for Samsung

(24) As for the tax exemption and tax credit received during the IP, the amount of subsidy was the amount of tax forgone or not collected. As for the tax reserves, they function as tax deferral systems and such tax deferrals are to be regarded as interest-free loans. The amount of subsidy with regard to the tax reserves concerned was therefore calculated as the amount of interest that Samsung would have to pay on a comparable commercial loan during the IP, i.e. on a loan for an amount equivalent to the amount of tax deferred. The interest rate used in the calculation of the subsidy was the average commercial interest rate in Korea during the IP. The amounts of taxes deferred in tax years prior to that falling within the IP were included in the amount of such loans to the extent that they have not been fully repaid. The full subsidy amount was allocated over total turnover.

(25) However, since this benefit amounted to only 0,92 % ad valorem and no other subsidy is alleged for Samsung, the amount would in any event be *de minimis*. Consequently, it is not necessary to examine whether a countervailable subsidy is involved.

3. Syndicated loan of KRW 800 billion

(a) Description of the measure

(26) In the second half of 2000, the financial advisor of Hynix, Salomon Smith Barney Inc. (SSB), worked out a financing plan to resolve the problem of a mismatch between Hynix's cash flow and the extent of debt obligations that matured and had to be repaid in 2001. SSB's financing plan was supposed to address what at the time were called 'short-term liquidity problems' due to the fact that most of Hynix loans were scheduled due and payable during 2001. One of the measures proposed under the financing plan was a syndicated loan. Hynix appointed Citibank as lead manager of the syndicated loan and during December 2000 Citibank held meetings with domestic banks to present its plan.

(27) Ten banks participated in the loan, which amounted to KRW 800 billion. These banks were Korea Development Bank, Hanvit Bank, Chohung Bank, Korea Exchange Bank, Korea First Bank, Kookmin Bank, Citibank, Shinhan Bank, Hana Bank and KorAm Bank. The loan was released in two tranches. The interest rate of the tranches was set at that of unsecured three-year corporate bonds for BBB- rated companies plus an additional margin to reflect the risky nature of this financing bearing in mind the high debt ratio of Hynix. One of the conditions of the loan was the separation of Hynix from the Hyundai group. According to the loan agreement, the loan amount was to be used exclusively for redeeming the previously issued corporate bonds, refinancing the existing debt or securing liquidity.

(b) Findings of the investigation

(28) The first question to be examined is whether the loan provided to Hynix conferred to it a benefit compared with what would have been available to it in the market at the time of the granting of the loan.

(29) According to the information in the possession of the Commission, the banks made their assessment on whether to participate in the loan on the basis of the SSB report and their own evaluation of the market situation and the situation of Hynix. The assessments were done in December 2000, when the demand and prices for DRAMs were still good and the industry outlook was positive. It was acknowledged that Hynix had a great debt burden since its debts almost doubled following its merger with LG Semiconductor in 1999, but since the price trend was expected to remain stable and Hynix had essentially been able to serve its debts during the 'good year of 2000', the documents in the possession of the Commission indicates that it was not unreasonable for the banks to expect to recover the loan under those circumstances.

(30) It was verified that the credit rating of Hynix at the time of the granting of the loan was BBB-⁽¹⁾. Consequently,

considering the terms of the loan granted as explained above under recital 27, the information in the possession of the Commission does not allow it to conclude that the interest rate of the loan and the maturity periods were not in conformity with market conditions.

(31) For these reasons, it is concluded that there is no benefit, and the granting of the syndicated loan of KRW 800 billion is not considered to constitute a subsidy in the meaning of Article 2 of the basic Regulation.

4. KEIC guarantee for export credits in the amount of USD 600 million

(a) Description of the measure

(32) Korea Export Insurance Corporation (KEIC) is the official export credit agency of Korea, established in 1992 under Article 37 of the Export Insurance Act. KEIC provides export insurance and guarantees to manage the risks associated with overseas transactions. KEIC is a specialised non-profit corporation that operates under the authority of the Ministry of Commerce, Industry and Energy. The National Assembly determines total limits for business underwritten and contributions to the Export Insurance Fund, which is the basis of the KEIC operations. According to the bylaws of the KEIC, it shall transfer all its profits to reserves which are used to cover its deficits. In case of shortage of reserves, the Government shall provide the funding to cover the losses.

(33) In January 2001, 14 Hynix creditor banks increased the ceiling of the export credit facility for D/As (documents against acceptance) provided to Hynix from USD 800 million to USD 1,4 billion, an increase of USD 600 million. KEIC granted the short-term export credit insurance for the extended D/A limit as regards the transactions between Hynix and its overseas subsidiaries. The exports are financed by D/As of 90 days maturity. Hynix collects the foreseen payment for the export transaction from the banks concerned, which hold the D/A document. The importer in the country of destination then makes the payment for the goods concerned directly to the banks against the D/A. Hynix pays a premium to KEIC for the insurance and interest to the banks concerned for the D/A amounts withdrawn until the importer makes the final payment. In the case under investigation, KEIC insurance covers the amounts due to the banks which cannot be collected due to bankruptcy of either the exporter or the importer.

(34) KEIC grants short-term export insurance upon application after assessing the details of the export transaction concerned, credits status of the exporter and importer and the sovereign risk of the importing country. If KEIC decides to provide the insurance, the premium is set accordingly pursuant to the premium tables of KEIC.

⁽¹⁾ Standard & Poor's.

(b) Findings of the investigation

- (35) The first question to be examined is whether the insurance in question was provided in more favourable terms than what was available in the market and whether it therefore provided a benefit to Hynix.
- (36) During the investigation it was confirmed that the premiums paid to KEIC were in line with the general premium tables of KEIC and reflected the sovereign risks of the importing countries (mainly OECD countries with a low risk factor) and the credit rating of Hynix at the time of providing the insurance. It was also confirmed that Hynix had actually paid the premium with regard to each transaction for which the D/A facility was used. For these reasons it is confirmed that Hynix was treated in accordance with the general terms and conditions regarding KEIC short-term export credit insurance. The Commission has no indication that the general terms and conditions provided by KEIC for short-term export credit insurance would significantly deviate from those available in the market.
- (37) As regards the level of the premium charged, the Commission has no indication allowing it to conclude that the premiums charged by KEIC for the short term export credit insurance would not be sufficient to cover the long-term operating costs and losses of such insurance programmes provided by KEIC.
- (38) For these reasons, it is concluded that there is no benefit, and therefore the export insurance granted for KEIC for the additional D/A facility of USD 600 million provided by the banks is not considered to constitute a subsidy within the meaning of Article 2 of the basic Regulation.

5. SGICO guarantee for bonds to be purchased by investment trusts

- (39) During the investigation it was confirmed that the planned bond issuance, contrary to what had been alleged in the complaint, actually never took place and consequently no guarantee was provided.

6. Bond purchase by creditor banks in the amount of KRW one trillion and the first roll-over of debt in May 2001*(a) Description of the measures*

- (40) In March 2001, 17 Hynix creditor banks established a 'Creditors' Financial Institution Council' (CFIC) by signing the 'Creditors' Financial Institution Council Agreement'

between themselves. The financial advisor SSB prepared, in April 2001, a recapitalisation plan for Hynix, in which it recommended measures involving: (a) an injection of fresh capital into Hynix through the offering of KRW 1,3 trillion worth of global depository receipts (GDR), (b) an extension of the maturities of both short and long-term debts and a further purchase of convertible bonds (CB) worth KRW one trillion by the creditor banks. In May 2001, the creditor banks agreed to support this financial restructuring on the condition that the GDR offering in the international capital markets would be successful. If not, the roll-over of maturities would be cancelled and the CBs repurchased by Hynix. In addition, the funds received from the CB issuance had to be maintained in an escrow account and could only be used for the repayment of corporate bonds maturing in the first half of 2002.

- (41) In mid-June, Hynix raised USD 1,25 billion by GDR issuance and on 20 June 2001 the creditor banks purchased CBs in proportion of their total exposure to Hynix as of 30 November 2000. The maturities of the short-term debts were prolonged until June 2002/2003 and those of long term debts until 2004/2005.

(b) Findings of the investigation

- (42) The first question to be examined is whether the measures carried out by the banks in favour of Hynix were compatible with the behaviour of a market investor in the same situation.
- (43) It is noted that the DRAM prices started to decrease from their very high levels throughout much of the year 2000 from September 2000 onwards. The prices stabilised in January 2001 but they resumed their decrease in February 2001. In March 2001 the prices started to rise again. The SSB report was made at the time when there was an increase in DRAM prices. The SSB report forecast that the DRAM market would recover in the third quarter of 2001 so that the equity infusion and the extension of maturities would be sufficient to help Hynix to overcome its liquidity crisis. The credit rating of Hynix at the time of the measures was set at BB+ by Korean rating agencies ⁽¹⁾ and at B- by international ones ⁽²⁾. It is noted, however, that some analysts at the same time were more cautious about the price recovery and raised doubts about Hynix's ability to meet its debt repayment obligations ⁽³⁾.

⁽¹⁾ Korea Information Service, Korea Management Consulting & Credit Rating Corporation.

⁽²⁾ Standard & Poor's.

⁽³⁾ Deutsche Bank, 'Hyundai Electronics Inc., Digging a Deeper Hole', 23 February 2001; Morgan Stanley Dean Witter, 'Hynix Semiconductor, Huge Losses from Poor Balance Sheet Again', 20 April 2001.

- (44) The information verified during the investigation confirms that the banks made their participation in the measures conditional upon the success of the GDR issuance. Once the GDR issuance was carried out and the USD 1,25 billion secured on 15 June 2001, the banks executed the rest of the measures as proposed by SSB in its recapitalisation plan. Under these circumstances, the behaviour of the banks is considered to be equal to that of the other market investors, who invested in Hynix GDRs at the same time. However, there is some evidence in the records that indicate that the investors' interest to invest in Hynix GDRs at the time might have been influenced by the belief that the GOK would ultimately make sure that Hynix does not default on bonds and loans ⁽¹⁾. The Commission however has no indication that there was an actual GOK guarantee granted for the bonds in question.
- (45) In view of the above, the information in the possession of the Commission is not sufficient to allow it to conclude that the measures of May 2001 conferred a benefit to Hynix. Therefore, the bond purchase by creditor banks in the amount of KRW one trillion and the first roll-over of debt in May 2001 are not considered to constitute a subsidy within the meaning of Article 2 of the basic Regulation.

7. KDB Debenture Programme

(a) Legal basis and description of the facility

- (46) The KDB Debenture Programme is based on Article 18(4) of the KDBA, which provides that KDB may engage in the subscription, acceptance and investment or guarantee of debentures issued to finance certain major projects, or bonds issued by public organisations.
- (47) According to the GOK, the programme was designed to address the instability in the financial system that arose from a large amount of bonds maturing simultaneously and issued mainly by a few companies. The programme was announced in December 2000 and it only lasted for year 2001.
- (48) Under the Debenture Programme, the KDB helps roll-over maturing debt obligations and repackages the debt for investors. A participating company repays on its own 20 % of its corporate bonds falling due and KDB assumes the remaining 80 %. KDB then sells 20 % of the 80 % to the creditor banks on a pro-rata basis in proportion to their loans to the participating company. KDB then repackages and transfers 70 % of the bonds it holds

to the primary 'collateralised bond obligations' (CBOs) and/or 'collateralised loan obligations' (CLOs) guaranteed by the Korea Credit Guarantee Fund (KCGF) and continues to hold the remaining 10 %. The CBOs and CLOs are asset-backed securities that are sold to investment trusts. The participating company has to repurchase at least 3 % of any CBOs and 5 % of any CLOs issued under the programme.

(b) Eligibility

- (49) The nomination of a company to participate in the programme is made by that company's principal creditor bank. The lead creditor nominates the company and then submits for approval by the Creditor Financial Institutions Council (CFIC) a credit risk evaluation, based on the prospects of the company's future operations, the financing plan, the redemption capability plan and the restructuring plan. The inclusion of a company into the programme is decided by the CFIC. CFIC consists of the representatives of KCGF, KDB and 17 other creditor banks. If banks holding 75 % of the loans of the company concerned approve the nomination, CFIC considers that such decision is made in unanimity.
- (50) In order to be admitted to participate in the programme, the company needs to fulfil the following eligibility criteria: 1. the company must be able to redeem at least 20 % of its maturing bonds on its own; 2. the company should be likely to be able to normalise its business operations by a credible restructuring plan, but its credit rating is below A and it has difficulties in refinancing its bonds. However, the credit rating of the company must remain higher than BB ⁽²⁾; 3. any company under workout programs, court receivership or insolvency proceedings is excluded from participation.
- (51) The participating company also needs to enter into a special agreement with its creditor banks entitling the banks to demand the disposal of equity interests held by its majority shareholders and the replacement of management in case of insolvency.

(c) Practical implementation

- (52) Seven companies applied for the programme and six of them were admitted. Four of them, including Hynix, belonged to the Hyundai group. Hynix was admitted on 4 January 2001. At the time Hynix credit rating was BBB- ⁽³⁾.

⁽¹⁾ Hynix GDS Offering Memorandum, June 2001; 'Korea's Hynix Says Hikes GDR Issue to \$ 1.25 bln', Reuters English News Service, 13 June 2001.

⁽²⁾ Standard & Poor's.

⁽³⁾ Standard & Poor's.

- (53) The total amount originally foreseen for Hynix bonds was KRW 2,9 trillion out of the total foreseen programme budget of KRW 6,2 trillion. However, the total amount used under the programme was KRW 2,9 trillion, of which KRW 1,2 trillion was used for purchasing Hynix bonds. Although Hynix stopped participating in the programme in August 2001, the amount used for purchasing Hynix bonds amounted to 41 % of the total expenditure. It is noted that the amount used by the other three Hyundai companies amounted to 38 % of the total expenditure.
- (d) *Findings of the investigation*
- (i) Existence of the subsidy
- (54) In case of the KDB Debenture Programme, the funds were provided by KDB. In the particular case of examining this programme, the first question would be to examine whether the financing provided by KDB constitutes a 'financial contribution by a government'.
- (55) KDB was founded in 1954 under the Korea Development Bank Act as a special purpose bank to supply long-term credit for industries to stabilise the economy and promote industrial rehabilitation. The major businesses of KDB consist of: 1. loans with longer than one-year maturity; 2. investment in the form of underwriting of bonds and stocks; and 3. payment guarantees to help finance industrial projects.
- (56) KDB is owned 100 % by the GOK. According to Article 18 of the KDB Act, KDB must undertake business 'necessary to realise the objectives and goals stipulated in Article 1.' Article 1 of the KDB Act provides that, 'The purpose of the Korea Development Bank is to supply and manage key industrial capital to facilitate the development of businesses as well as the national economy'.
- (57) According to Article 44 of the KDB Act, annual net losses are compensated by the GOK, if the reserve funds are insufficient. KDB also regularly receives capital injections from the GOK. The capital injected by GOK 1998 to 1999 was KRW 5,7 trillion. In 2001, the GOK injected 3 trillion KRW into KDB.
- (58) Furthermore, KDB itself recognises that it has a special relationship with the GOK and that it has a special public policy role in the Korean economy. The KDB website states that, 'In addition to its public policy role as the Government's flagship financial institution, KDB also acts as the Government's funding vehicle for external borrowing. The Government has stated its intention to use KDB as the primary vehicle for raising funds in the international markets' ⁽¹⁾.
- (59) Considering the above, it can be concluded that not only is KDB 100 % owned by the GOK, but it is also entrusted with a specific public policy role which obliges it to carry out policies normally followed by the Government. The GOK provides its funding, can inject capital to it and covers its losses. On this basis KDB can be considered as a 'public body' carrying out specific public policy tasks as defined in the KDB Act. For these reasons, financing provided by KDB, i.e. the purchase of corporate bonds, is considered a financial contribution by a Government, involving a direct transfer of funds, within the meaning of Article 2(1)(a)(i) of the basic Regulation.
- (60) The next question is to examine, whether the funding provided by KDB conferred a benefit upon Hynix.
- (61) Both the conditions of the programme and the information provided in the replies to the Commission's questionnaires indicate that the programme was created exclusively for certain companies, among which Hynix, which were not able to refinance their bonds via financial markets. The GOK itself states in its reply to Commission questionnaires that at the time of the measures there was a 'fight of quality' in the Korean financial markets which meant that only companies with very strong credit ratings could issue bonds and companies with moderate grade rating were not able to do so. Hynix at the time had already a weak rating and accordingly would have been unable to make such a financial operation through the markets. Therefore, the financing provided via the KDB Debenture Programme conferred a benefit upon Hynix which was not available to it under market conditions at the time of the financing. For these reasons the financing provided by KDB Debenture Programme is considered a subsidy in the meaning of Article 2 of the basic Regulation.
- (ii) Countervailability
- (62) According to Article 3 of the basic Regulation, only specific subsidies are countervailable. The first question to be addressed is whether the subsidy is specific in law under Article 3(2)(a). On the face of it, there was no restriction on which companies could apply for the programme. There is, however, some circumstantial evidence that the scheme was aimed at particular enterprises. The information provided in the replies to the Commission's questionnaires indicates that the programme was targeted to specific companies which had a large amount of maturing bonds which they could not refinance through the financial market. This implies that the purpose of the programme was to provide

⁽¹⁾ KDB website <http://www.kdb.co.kr/>.

financial assistance to the companies concerned, above all Hynix, which was foreseen from the onset to be the major beneficiary of the programme. Nevertheless, there is insufficient evidence to support the argument that the legislation creating the programme explicitly limited its access to certain enterprises.

- (63) Article 3(2)(c) of the basic Regulation stipulates that if notwithstanding any appearance of non-specificity there are reasons to believe that the subsidy may in fact be specific, other factors may be considered. Such factors can be the use of the subsidy programme by a limited number of certain enterprises, predominant use by certain enterprises or the granting of disproportionately large amounts of subsidy to certain enterprises.
- (64) It is noted that the Debenture Programme was used by only six enterprises, despite involving KRW 2,9 trillion of expenditure. In addition, it was predominantly used by enterprises who at the time of the granting of the measures were members of the Hyundai group. These enterprises used 79 % of the total expenditure under the programme. However, and more importantly, Hynix received a disproportionately large amount of the total expenditure of the programme, namely 41 %. Under the original set up of the debenture programme, Hynix was allocated to receive an even greater amount, namely 47 % of the total expenditure. For these reasons, the financing received by Hynix under the KDB Debenture Programme is considered a specific subsidy in the meaning of the Article 3(2)(c) of the basic Regulation and therefore countervailable.

(iii) Calculation of the subsidy amount

- (65) The amount of Hynix bonds financed by KDB was KRW 1,2 trillion. Hynix paid back KRW 280,4 billion according to the conditions of the programme⁽¹⁾. The amount to be taken as the basis of the calculation of the subsidy is the amount received by Hynix under the programme during the IP, i.e. KRW 919,6 billion.
- (66) The Commission considered whether it would be appropriate to compare this amount to a 'market benchmark' (i.e. the amount of finance that would have been provided by commercial operators in similar circumstances), and to use the difference between the two figures as the amount of subsidy. However, the evidence on the record, including the statements of the GOK itself, shows that the credit rating of Hynix at the time of the measures render impossible for it to issue bonds due to the tightened standards existing on the financial markets and, therefore, no commercial entity would have undertaken this sort of operation. Also, it was evident at the time of the assumption of Hynix debt by

KDB, that KDB was highly unlikely ever to recuperate its funds. Therefore, KDB's assumption of Hynix's bonds is considered to be pure debt forgiveness, which is the equivalent of a grant. This measure is therefore considered as subsidy in accordance with Section E (a) of the Guidelines for the Calculation of the Amount of Subsidy in Countervailing Duty Investigation⁽²⁾ (the Guidelines).

- (67) This subsidy confers a large, non-recurring benefit. According to Article 7(4) of the basic Regulation, such a subsidy should in principle be attributed to the IP, unless special circumstances justify attribution over a different period. In the present case, however, since the subsidy is of such nature that it is benefiting the company over a period of time longer than only the IP, it is considered that the allocation method used in Article 7(3), according to which the amount of subsidy is spread over time, is considered appropriate under these circumstances. Indeed, the DRAM industry is an industry in which the main costs are occasioned by the requirement to have state of art machinery and equipment, which constitute its main assets needed for operations. Therefore, the most appropriate allocation period in this case is the useful life of the assets (machinery and equipment), which is considered to be five years in accordance with the financial accounts of the company and the usual practice in the industry concerned. The amount of subsidy so allocated was expressed as a percentage of the total sales of Hynix in 2001. With interest, using the average commercial interest rate applicable in Korea for the investigation period, the subsidy amounts to 4,9 %.

8. The October 2001 rescue package, consisting of debt to equity swap, the second roll-over of debt and the provision of a new loan of KRW 658 billion

(a) *Description of the measures*

- (68) The second Hynix CFIC was set up on 4 October 2001 in accordance with the provisions of the Corporate Restructuring Promotion Act (CRPA). CRPA was enacted in August 2001 and its purpose was to facilitate corporate restructuring, which before was based on agreements between creditor banks and the companies concerned. The CFIC consisted of 110 financial institutions including 17 banks and 15 investment trust companies. The decisions of the CFIC were taken by 75 % majority. The votes were allocated in proportion of each institution's exposure of the total loans to Hynix. Any financial institution exercising its dissenter's rights by disagreeing with a CFIC resolution would be excluded from the CFIC permanently.

⁽¹⁾ This amount consists of the 3 % and 5 % payments of the CBOs/CLOs issued and an advance repayment of the total amount of these bonds.

⁽²⁾ OJ C 394, 17.12.1998, p. 6.

- (69) In its second meeting held on 31 October 2001, CFIC decided on the so-called 'second restructuring package' for Hynix. The following measures were proposed:
- provision of new loan of KRW 1 trillion to Hynix with an interest rate of 7 %,
 - debt to equity swap by provision of bonds convertible into shares,
 - extending the maturities of existing loans until 31 December 2004, converting the maturing corporate bonds into corporate bonds with a three year maturity and an interest rate of 6,5 % and adjusting the interest rate of the remaining loans in Korean currency to 6 %.
- (70) The financial institutions were given three options by CFIC in the 31 October meeting. The first option was to agree with the proposals by extending new credit and participating in a debt-to-equity swap. Secondly, the banks which did not want to participate in the new loan were, under the conditions of the second CFIC (see recital 68), obliged to swap 28,5 % of their loans into equity and waive the rest of the Hynix debt. Thirdly, the CFIC also decided that those banks which objected to the measures and used their dissenter's rights would have their loans purchased back at the liquidation value as established by Arthur Andersen, who was commissioned to conduct a study on the financial situation of Hynix at the time.
- (71) Nevertheless, only six banks agreed to extend new credit, which amounted to KRW 658 billion instead of the planned KRW 1 trillion. These banks swapped a considerable amount of their loans into equity. Eight banks refused to extend new loans, so they swapped approximately one-third of their loans into equity and wrote off the rest of them as a loss. The remaining banks objected the restructuring and were to receive the liquidation value of their loans, and had to write the remaining debt off as a loss. The loans remaining with the banks of the first category were subject to maturity extensions and interest rate cuts as explained under recital 69.
- (b) *Findings of the investigation*
- (72) The first question to be examined is whether the measures carried out by the banks in favour of Hynix were compatible with the behaviour of a market investor or a market creditor in the same situation. If it were established that the banks' behaviour did not correspond to that of a private investor or creditor, thereby conferring a benefit to Hynix, the next step would be to examine whether such behaviour and the resulting benefit can be attributed to the Government involvement in the banks concerned.
- (73) Almost immediately after the successful GDR issuance of June 2001 it became clear that the DRAM market would not recover in the foreseeable future. On the contrary, the situation was set to become much worse. Indeed, the DRAM prices continued to fall. From June 2001 to August 2001 128 Mbit DRAM prices fell on average by 68 %. The prices continued to fall by a further 52 % by November 2001. The prices for 64 Mbit fell by 62 % from August 2001 to September 2001. Analysts agreed that the DRAM market was at its lowest point ever ⁽¹⁾.
- (74) Hynix stock price collapsed almost immediately after the 15 June GDR issuance. Only five days after, on 20 June 2001, SSB announced that it would not exercise its over-allotment option to buy more GDRs since they were traded for less than the issue price. On 3 August 2001, SSB issued a report on Hynix in which it admitted that its earlier more optimistic projections on the situation were wrong. SSB's new Hynix projections cut its revenue forecast in half and reduced both gross and operating profit to a substantial loss. By 6 September 2001, the price of GDRs had fallen by 72 %, resulting in great losses for the purchasers.
- (75) This development was recognised also by the Hynix creditor banks. The information in the possession of the Commission shows that the banks downgraded the credit rating of Hynix and also their industry ratings for the semiconductor industry in general during summer 2001. Standard and Poor's classified Hynix's outlook 'negative' in August 2001 and downgraded it to CC on 9 September 2001 and to SD (selective default) in October 2001. It is noted that Hynix, due to its negative financial outlook, had to stop participating in the KDB Debenture Programme in August 2001. The information in the possession of the Commission indicates that this was due to the fact that the banks refused to buy Hynix bonds and KCGF refused to guarantee all the foreseen CBOs/CLOs.
- (76) In October 2001, Hynix financial situation had deteriorated again. It again faced liquidity problems and it did not have sufficient cash-flow to meet its obligations, its debts being six times greater than its equity. It was virtually bankrupt, which was also acknowledged by its creditor banks. Raising capital in the financial markets was no longer possible.

⁽¹⁾ SSB, September 2001, CFO Asia, December 2001, In-Stat MDR, July 2002.

(77) As regards the October 2001 measures carried out by the creditor financial institutions, it is noted that the banks which opted for the first option to extend new loans to Hynix, i.e. to carry out an extensive debt to equity swap and to extend the maturity and cut the interest rates of the existing loans, were the following: KEB, Woori Bank, Chohung Bank, KDB ⁽¹⁾, NACF ⁽²⁾ and Citibank. The banks who waived most of their debts but had to swap part of it into equity were Shinhan Bank, Kookmin Bank, Housing and Commercial Bank, KorAm Bank, Hana Bank, Seoul Bank, Industrial Bank of Korea and Pusan Bank. Korea First Bank used its dissenter's rights ⁽³⁾. According to information in the possession of the Commission, the banks participating in the second and third option, wrote off their Hynix debts as a loss and sold their Hynix bonds resulting from the debt to equity swap, so that by 2002 they had eliminated all their Hynix loans. The behaviour of the six banks of the first category, on the other hand, was significantly different. These banks actually extended even more loans to Hynix, extended the maturities of the existing loans and held a great amount of Hynix shares ⁽⁴⁾. Also, as regards the interest rate of the new loans granted to Hynix, it is noted that the interest rate was set at 7 %, which was the rate for financially sound companies, but was not available to risk capital operation, let alone a company in the situation Hynix was in at the time ⁽⁵⁾.

(78) Accordingly, considering the above described circumstances, it appears evident that no market investor would have invested in Hynix in October 2001. This was also reflected by the Creditor institutions' choice of the measures to be taken: there was no proposal to issue GDRs or other similar instruments to the markets to raise cash, which would have been the most logical way to proceed in a normal situation. In view of this, it appears that the banks which objected the measures or which wrote off their debts as a loss at this stage only receiving the liquidation value, acted in a way any normal market investor would have done in this situation. They eliminated their exposure to Hynix for good and wrote off their losses resulting from this decision. On the contrary, the rationale of the banks who continued financing Hynix in that situation cannot be reconciled with any commercial considerations, and indeed it appears that each of them did not expect any

return for their further financing. Therefore, continuing financing Hynix in October 2001 conferred a benefit upon Hynix that was not available to it under market conditions. The next question is therefore to examine, whether this apparently non-commercial behaviour is due to the involvement of GOK in the banks concerned.

(79) It is noted that of the nine banks which stopped financing Hynix in October 2001, seven were private banks. Of the six banks involved in the continuous financing of Hynix on the other hand, the four largest creditors are either totally or by a large majority owned by the GOK. One of them is a special bank with a public policy role and three others are under GOK control due to the fact that they are themselves under restructuring, have agreements with the GOK regulating their business operations and are subject to capital injections by GOK. Three of the four major creditor banks of Hynix are briefly described below. A description of KDB, and the reasoning for it being considered as a 'public body', is provided above in recitals 55 to 59.

Woori Bank (WB)

(80) Hanvit Bank (currently Woori Bank) is under restructuring following the Korean financial crisis. From October 1998 onwards, Korea Deposit Insurance Corporation ⁽⁶⁾ (KDIC) was a major shareholder of Hanvit Bank and at the end of 2000, KDIC became the 100 % shareholder. In March 2001 KDIC set up Woori Financial Holdings Company (WFH) as its fully owned subsidiary and transferred the shares of Hanvit Bank into WFH. Hanvit bank was renamed Woori Bank which remains 100 % owned by GOK via KDIC.

(81) KDIC injected KRW 3,2 trillion into Woori Bank (Hanvit at that time) in 1998. In December 2000, Woori Bank and KDIC entered into an agreement for the implementation of the management improvement plan for the bank (Memorandum of Understanding or MOU). Woori Bank was assessed not to be viable by the Financial Supervisory Commission, and its share capital was reduced to zero. Pursuant to the MOU, KDIC injected KRW 2,724 trillion in December 2000 as an investment in the common stock, representing the entire share

⁽¹⁾ KDB did not participate in the new loan of 658 billion, but otherwise went on with option 1.

⁽²⁾ National Agricultural Cooperative Federation.

⁽³⁾ Kwangju Bank and Kyongnam Bank objected the refinancing proposal already in the 4 October 2001 meeting.

⁽⁴⁾ It is noted that following the conversion of the CBs into Hynix shares in June 2002, the banks own 66,84 % of Hynix shares.

⁽⁵⁾ It is noted that in January 2001 when Hynix credit rating was BBB- the loan granted to it by the same banks had a considerably higher interest rate than 7 %. As by October 2001 the rating had deteriorated to 'selective default' (see recital 75), the interest rate would have been much higher had the loan been granted on commercial terms.

⁽⁶⁾ The main task of KDIC is to pay off insured depositors in case of an insolvency of a financial institution. It is a special legal entity established in 1996 in order to operate the deposit insurance system in accordance with the Depositor Protection Act. KDIC was also the main vehicle used by GOK in recapitalising financial institutions during and after the financial crisis. As a result of KDIC equity participation and capital injections to financial institutions, it became their shareholder. KDIC represents GOK in the exercise of shareholder rights in these institutions. KDIC is considered a public body, and GOK in its replies to the Commission questionnaire equals KDIC shareholding in the banks concerned to that of the GOK.

capital. A further capital injection of KRW 1,878 trillion was provided in September 2001. According to the MOU, in case of failure of Woori Bank to implement it, KDIC may order Woori Bank to increase or decrease its capital, pursue a merger, assign contracts such as loans and deposits or close or sell part of its business operations.

- (82) In July 2001, Woori Bank and WFH entered into an MOU. Woori Bank shall, *inter alia*, consult WFH on material business decisions before execution and prepare and implement a detailed business plan in accordance with the business strategy of WFH. If Woori Bank fails to implement the business plan, WFH may order Woori Bank to limit sales of the specific financial items and/or investments, or to close or merge its operations.

Chohung Bank

- (83) Chohung Bank was the first Korean financial institution set up in 1897. It started international banking business in 1963. In 1999, KDIC injected KRW 2,7 trillion into Chohung Bank and became its largest shareholder with 80 % of shares. In 2001, the two largest shareholders were KDIC with 80 % and Hyundai Group with 3,4 %. KDIC and Chohung Bank entered into MOU in November 1999 which was amended in May 2000 and which gave KDIC a decisive influence over Chohung Bank's business decisions ⁽¹⁾.

Korea Exchange Bank (KEB)

- (84) KEB was established as a government-owned bank in 1967, when it was separated from the Bank of Korea to specialise in the foreign exchange and trade business. In 1977 KEB moved into commercial banking. KEB was hit by financial difficulties in the wake of the Korean financial crisis. Commerzbank AG of Germany acquired 30 % of KEB shares in 1998 and KEXIM ⁽²⁾ injected KRW 336 billion into KEB in 1999 and KRW 400 billion in 2000. In 2000, the bank implemented a two-to-one capital reduction on all shares for the purpose of disposition of accumulated deficit. The largest shareholders of KEB in 2001 are GOK by 43,17 % (32,50 % KEXIM and 10,67 % Bank of Korea) and Commerzbank AG by 32,55 %.

⁽¹⁾ It is noted that a new MOU between Chohung Bank and KDIC was entered into in January 2002.

⁽²⁾ The Export-Import Bank of Korea. KEXIM was established in 1976 pursuant to the Export-Import Bank of Korea Act. According to the Act KEXIM aims to promote growth and development of the Korean economy and to facilitate trade with foreign countries. KEXIM is owned by GOK (54,8 %), Bank of Korea (39 %) and Korea Development Bank (6,2 %). In its replies to the Commission's questionnaires, GOK equals KEXIM shareholding to that of the GOK. For these reasons, KEXIM is considered a public body.

- (85) Due to KEB continued financial difficulties the Financial Supervisory Service had imposed a management improvement recommendation on KEB in 1998. In 2000, KEB submitted its management improvement plan which received in 2001 'conditional approval', subject to certain conditions.

National Agricultural Cooperative Federation (NACF)

- (86) NACF was formed on 1 July 2000 when the former National Agricultural Cooperative Federation, National Livestock Cooperative Federation and National Ginseng Cooperative Federation were merged further to the 1999 Agricultural Cooperative Law. According to the NACF itself, its objective is to improve the economic, social and cultural status and quality of life of farmers. In pursuing that objective, NACF performs diversified business activities including credit and banking service, which accounted for 31,7 % of its revenues and 75,7 % of its operating income in 2001. The number of member cooperatives was 1 383 in 2001. According to the information provided to the Commission, none of the members holds a stake of 1 % or more of NACF. It is noted that KDIC took KRW 96,2 billion equity participation in NACF in 2001. It is also noted that the GOK intervened a number of times either directly or indirectly in order to assist NACF financially.

Citibank Seoul

- (87) Citibank Seoul is 100 % owned by Citigroup, a United States financial group. Citibank was one of the first foreign banks authorised to operate in Korea in 1967, and characterises itself as a 'committed partner of both Korean government and industry' ⁽³⁾. Citibank and its subsidiary SSB were the financial advisors of Hynix in 2000 to 2001.

(i) Government involvement in banks

- (88) As regards WB, the records show that the bank was very well aware of the rather gloomy financial situation of Hynix. However, the documents received during the investigation show that WB approved the measures on the basis of public interest considerations, referring to the impact on the national economy of Hynix going bankrupt. It is noted that such considerations are not commercial and not used by commercial banks when assessing whether to grant further financing to a company in serious financial difficulties. On the contrary, such public interest considerations are typically

⁽³⁾ 'Citibank in Korea', www.Citibank.com/korea.

used by governments when pursuing measures of supporting national economy, employment or other public policy goals. Such considerations in the WB loan decisions can therefore only be understood as reflecting the fact that GOK as the 100 % shareholder of the company is using its influence in directing the business decisions of the bank, as any major shareholder would.

- (89) As regards Chohung Bank, similar evidence is in the records. The internal rating of Hynix by the bank does not support the decision to grant further loans, and Hynix bonds, according to the bank, were being rated 'inappropriate for investment' by credit rating agencies. Chohung Bank also did immediately raise its loss reserves after participating in the measures to cover 80 % of the Hynix debt and it accounted the whole debt-to equity conversion as a loss. Nevertheless, according to the documents received during the investigation, Chohung Bank approved the measures by referring to its need to comply with its MOU with the GOK. This illustrates that the banks under restructuring are restricted in their business decisions to comply with the conditions set for them by GOK. In such situation, the fact that GOK was also the majority shareholder of Chohung Bank with 80 % of the shares, reinforces the conclusion that GOK used its influence in directing the business decisions of the bank, as any major shareholder would.
- (90) As regards KEB, the situation is similar to the WB and Chohung Bank. The bank was very well aware of the risks involved, having given Hynix a rating at the time of the October financing measures that did not support granting further credit. Yet it nevertheless continued to provide financing to Hynix. It is important to note that the bank was under restructuring itself at the time of the granting of the October financing measures, and was therefore supposed to be extremely prudent in its credit decisions and in particular to avoid 'bad debts'. Regardless of this, it nevertheless provided the financing to Hynix. The resulting dangerous commercial situation was acknowledged by the 2001 Annual Report by independent accountants who stated that the actual losses resulting from outstanding loans to Hynix and the Hyundai group of companies may exceed the allowances made by the bank for such losses and that the ultimate effects of these significant uncertainties on the financial position of the bank cannot be determined.
- (91) It is noted that KEB used to be a specialised government bank and GOK has been a major shareholder of the bank until 1998 when Commerzbank acquired its shares in the bank. The bank therefore has a past and culture of GOK influence in its business decisions that cannot be ignored. It is considered unlikely that this has significantly altered since the acquisition of shares by Commerzbank in 1998, in particular considering that the GOK still remains the largest shareholder of KEB with 43 % of the shares. Furthermore, despite being under restructuring, the KEB continued to make a large amount of funds available to Hynix on manifestly non-commercial and very risky terms. As explained in recital 77, the October 2001 loans were made at a rate available in the market for financially sound companies, but not for risk capital, let alone a company in a situation such as Hynix. Indeed, considering the risk involved in the loans to Hynix, which was rated selective default at the time, no market loans would have been available in any event. Given the extent of government involvement, past and present, in KEB, the totality of the facts on the record of the investigation indicates that GOK must have used its influence as the largest shareholder of KEB as regards the decision to participate in the October 2001 measures, from which there can be no commercial benefit for KEB. In support of this conclusion, we note that there is no other rational explanation than that of GOK interference for the decision of KEB to continue to finance Hynix.
- (92) The two remaining financial institutions involved in the continuous financing of Hynix are NACF and Citibank. It is noted that these banks were not among the major creditor banks of Hynix and their shares of the total Hynix loans in October 2001 were between 1 % and 2 %⁽¹⁾. Citibank refused to cooperate with the Commission investigation, so the Commission must base its assessment on the involvement of Citibank on the facts available in accordance with Article 28 of the basic Regulation.
- (93) Given that Citibank did not cooperate with the Commission investigation, the Commission was not able to verify its motives in participating in the October 2001 measures. On the basis of the information available, the Commission notes that Citibank Seoul has had a very close and special relationship with the GOK since 1967.
- (94) In this respect, it is noted that Citibank has had an unusually close and symbiotic relationship with GOK since 1967, when it was authorised to operate in Korea. This close relationship between GOK and Citibank is witnessed in the role played by Citibank in assisting GOK to extricate itself from the Korean financial crisis of 1997. Citibank led and successfully completed Korea's bank debt restructuring for a total of USD 21,75 billion in 1998. Moreover, Citibank helped GOK and government related institutions to access capital markets during the Korean financial crisis by successfully sponsoring a USD 4 billion global bond offering. On the basis of

⁽¹⁾ NACF around 1,9 % and Citibank around 1,3 %.

these facts it appears that Citibank indeed have had very close relationship with GOK. Considering this, and the fact that Citibank's own rating of Hynix at the time of the October financing measures does not support a decision to grant further financing, it appears that the decision of Citibank to participate in the measures concerned may not have been coherent with commercial considerations.

- (95) In the absence of cooperation by Citibank, and thus failing any other explanation, it cannot be excluded on the facts available that Citibank Seoul had participated in the measures on the basis of non-commercial considerations and that in doing so it has been directed to participate in them by the GOK.
- (96) As regards NACF, it is noted that KDIC injected in 2001 KRW 87 billion into NACF to compensate for the accumulated deficit in the former National Livestock Cooperatives Federation that NACF took over in 2000. KDIC also provided NACF KRW 96,2 billion in equity participation in 2001. In 2000, NACF was exempted of its long-term borrowings of KRW 275 billion from the Livestock Development Fund by the Ministry of Agriculture and Forestry. In 2001, NACF also borrowed KRW 38 billion from the GOK with no interest. These measures demonstrate that NACF is not carrying out its business according to purely commercial considerations and principles but appears to be systematically underwritten by GOK, which in 2001 also took a considerable equity participation in NACF.
- (97) It is also noted that the purpose of NACF is to improve the economic, social and cultural status and quality of life of farmers, which is a typical purpose of a cooperative, but also an economic policy objective. In this purpose, NACF was made to merge with other cooperatives in 1999 by GOK, a decision which was not based on a commercial considerations of NACF, but decided upon and imposed on it by the GOK in striving for the abovementioned policy goals. This fact, and the evidence provided in the preceding recital of the continuous financial support provided by GOK indicates that NACF, even if being a cooperative, appears to be a body which carries out an economic policy of supporting the agricultural sector and being underwritten by the GOK for the losses resulting from its activities. It is also noted that the rating given by NACF to Hynix at the time of the October measures did not justify extending a further loan and participating in the October 2001 measures under commercial considerations, and the interest rate of the loan was below market rate (see recital 77).
- (98) The totality of the facts therefore indicates that NACF carries out its activities, including its banking business by pursuing public policy goals and is underwritten by GOK for these activities. NACF appears therefore not to carry out its activities according to purely commercial considerations but under the direction and influence of GOK, and in any event, there is no other rationale explanation for the continued support of Hynix.
- (ii) Conclusion on countervailable subsidy
- (99) The measures taken in October 2001 can be attributed to the GOK, either as acting as a public body in the meaning of Article 1(3) of the basic Regulation, or as directing the banks to provide the financing in the meaning of Article 2(1)(a)(iv) of the basic Regulation. The measures are considered as subsidies because:
- (100) The provision of the loan of KRW 658 billion is a financial contribution under Article 2(1)(a)(i) of the basic Regulation and confers a benefit to Hynix since the company was rated selective default at the time the benefit was granted and therefore no financing was available to it on the commercial markets.
- (101) The 'debt to equity swap' of KRW 2,994 trillion can be seen in two ways. Firstly, the GOK gave up source of revenue by waiving debt and relieved Hynix of its existing obligation to repay the loan, thus conferring a benefit. Secondly, the GOK invested in a non credit-worthy company, something no market investor would have done. In this way, the government actions (involving financial contributions under Articles 2(1)(a)(ii) and 2(1)(a)(i) of the basic Regulation) put Hynix in a better financial position that it would have enjoyed absent this action and that it could have obtained from the commercial market.
- (102) The extension of maturities and the rate cuts of existing loans are also inconsistent with commercial considerations, since they relieved Hynix of existing obligations, and are financial contributions under Article 2(1)(a)(ii) and Article 2(1)(a)(iv) of the basic Regulation.
- (103) According to Article 3 of the basic Regulation, only specific subsidies are countervailable. The measures of October 2001 were ad hoc measures providing financing only to a specific enterprise, Hynix. For this reason the subsidies provided in October 2001 are considered as specific and thereby countervailable.

(iii) Calculation of the amount of subsidy

- (104) The Commission considered whether it would be appropriate to compare the amounts granted to a 'market benchmark' (i.e. the amount of finance that would have been provided by commercial market investors in similar circumstances), and to use the difference between the two figures as the amount of subsidy. However, the evidence on the record shows that at the time of the measures no market investor would have invested in Hynix and no normal financial institution acting under commercial considerations would have provided financing to it. It can therefore be concluded that the measures provided to it were not available to it in the market and that no market operator would have undertaken these kind of measures ⁽¹⁾.
- (105) As regards the loan of KRW 658 billion, the information on the records indicates that the providers of the loan did not expect to recover the loan at the time of granting it. Hynix had not repaid any principle of its KRW 800 billion syndicated loan granted to it in January 2001 and had even defaulted on the interest payments. As regards loans granted before 2001 which formed the major part of the debt-to-equity swap, these had not been paid back either during 2001. Indeed, the total amount of loans and liabilities had only increased during 2001 regardless of the May 2001 measures which were to be used only for paying off existing debt. In addition, Hynix rating at the time of the October 2001 loan was 'SD' and it was therefore not able to raise money from the financial markets. For these reasons, the total amount of the loan of KRW 658 billion is considered as subsidy in accordance with section E(b)(v) of the Guidelines. As regards the debt to equity swap of KRW 2,994 trillion, the same principles apply. No market investor would have invested in Hynix shares at the time of the measure. In addition, the GOK had also forgiven the same amount of outstanding debt to Hynix. For the sake of clarity, the forgiveness of KRW 2,994 trillion is considered as subsidy.
- (106) As regards the benefit conferred by the roll-over of debt, the 2001 financial accounts of Hynix indicate that the value of extension of maturities and reductions of interest rates was KRW 1,586 trillion. This is effectively debt forgiveness, as reflected in the financial accounts of the company and considering that this is the audited evaluation of the company itself, it is taken as the amount of benefit.
- (107) Consequently, the total amount of the benefit provided by the October 2001 measures is KRW 5,238 trillion.
- (108) These subsidies confer large, non-recurring benefits. According to Article 7(4) of the basic Regulation, such a subsidy should, in principle, be attributed to the IP, unless special circumstances justify attribution over a

different period. In the present case, however, since the subsidies are of such nature that they are benefiting the company over a period of time longer than only the IP, it is considered that the allocation method used in Article 7(3), according to which the amount of subsidy is spread over time, provides an appropriate basis for attribution under these circumstances. Indeed the DRAM industry is an industry in which the main costs are occasioned by the requirement to have state-of-the-art machinery and equipment, which constitute its main assets needed for operations. Therefore, the most appropriate allocation period in this case is the useful life of the assets (machinery and equipment), which is considered to be five years in accordance with the financial accounts of the company and the usual practice in the industry concerned. The amount of subsidy so allocated was expressed as a percentage of the total sales of Hynix in 2001. With interest, using the average commercial interest rates applicable in Korea for the investigation period, the subsidy amounts to 28,1 %.

9. Amount of countervailable subsidies

- (109) The provisional amount of countervailable subsidies in accordance with the provisions of the basic Regulation, expressed *ad valorem*, for the investigated exporting producer Hynix Semiconductor Inc. is 33 %. The subsidy for Samsung Electronics Co. Ltd is *de minimis*. There is no other exporting producer of the product concerned in Korea.

Type of subsidy	KDB debenture programme	October 2001 measures	Total
	4,9 %	28,1 %	33 %

D. DEFINITION OF THE COMMUNITY INDUSTRY

1. Community production

- (110) During the IP the product concerned was manufactured in the Community by two Community producers that fully cooperated with the proceeding. One of these companies was the complainant. The other company supported the proceeding.

2. Definition of the Community industry

- (111) The product concerned produced by the two cooperating Community producers represented 100 % of the total Community production of the product concerned during the IP. The two cooperating companies, therefore, constitute the Community industry within the meaning of Article 9(1) of the basic Regulation. They are referred to as the 'Community industry' hereafter.

⁽¹⁾ See, in particular, recital 76.

E. INJURY

1. Preliminary remarks

- (112) It is noted that the DRAM market is characterised by a high degree of technological innovation which has led to considerable developments in DRAM density and configuration over the recent years. The DRAM density is expressed in Mbit, which is the statistical parameter commonly used in the DRAM industry to measure trade flows. The assessment of volume effects is therefore based on the number of Mbits and not on the number of units. An assessment on the basis of units would be less accurate as the industry considers both a DRAM component and a DRAM module (which contains several DRAM components) each as being a single unit.
- (113) Eurostat data were not used in the evaluation of volume and price trends as the Eurostat volume and price data are not considered reliable for the purpose of establishing accurate trends in the DRAM industry. Eurostat volume data are expressed in kilograms whilst statistical data used and presented by the DRAM industry are expressed in Mbit. The essential features of the product concerned rely on technical characteristics such as density, memory and speed. DRAMs with completely different features and architecture may have the same weight. Therefore, the product concerned cannot be reasonably compared on the basis of kilograms. In addition, Eurostat figures may register the origin of the product concerned on the basis of the country of assembly and not on the basis of the actual country of origin (i.e. country where the wafer is produced). Therefore, information derived from Eurostat cannot be reasonably used for the purposes of the investigation.
- (114) In considering the situation of the Community industry one should note that Micron Technology only started production in the Community in October 1998 after acquiring the Texas Instruments production plant in Italy. Therefore, the 1998 data on Community production, capacity, sales volume, market share, profitability, employment and productivity reflect this start-up situation. It is also noted that Infineon, a former division of Siemens, became an independent company in 1999.
- (115) Where necessary, for reasons of confidentiality, indices are used to show the evolution of trends. Given that for one exporting producer (Samsung) the subsidy provisionally established is *de minimis*, certain injury indicators have been analysed with regard to the other exporting producer only (Hynix). As far as imports from Korea are concerned, the injury and causal link analysis focused on those from Hynix. This is due to the fact that there are only two Korean exporters, i.e. Hynix and Samsung, with more or less similar export shares and that only Hynix's exports were heavily subsidised.

2. Community consumption

- (116) Apparent consumption of the product concerned in the Community was established on the basis of publicly available external sources. The total figure for Community consumption of the product concerned has been calculated on the basis of total imports plus all sales in the Community produced by the Community industry.
- (117) As shown in the table below, Community consumption of the product concerned increased by 416 % over the period considered. As shown, the volume of DRAM consumption has risen each year as a result of growing demand for products using DRAM and because of an increase in Mbit per product. However, the growth rate slowed throughout the period from 70 % at the beginning to around 50 % during the IP.

Consumption in '000 Mbits	1998	1999	2000	2001 (IP)
DRAMs	16 593 400	28 961 100	45 873 600	68 967 600
Index	100	175	276	416

3. Imports of the product concerned into the Community

(a) Volume of imports from Korea

- (118) The volume of imports from Korea increased by 431 % during the period considered. Imports from Hynix increased a little faster, i.e. by 461 % during the period.

Imports	1998	1999	2000	2001 (IP)
Index Korea	100	141	251	431
Index Hynix	100	194	372	461

(b) Prices of imports from Korea and Hynix

- (119) The average import price of the product concerned from Korea remained stable from 1998 to 2000. It dropped dramatically by 76 % during the IP. The prices in the IP were at substantial loss-making levels for the Korean exporters. The drop in the prices of Hynix was slightly higher but this was probably due to the fact that it was selling more of the lower density 64 Mbit DRAMs which were at the low end of the market and hence more subject to price pressure.

Average import price	1998	1999	2000	2001 (IP)
Index Korea	100	105	99	23
Index Hynix	100	91	77	20

- (120) For the determination of price undercutting, the Commission analysed price data in the IP. The relevant sales prices of the Community industry are prices to the first unrelated customer after deduction of discounts and rebates, i.e. net prices. During the IP, all sales of Korean imports were made via related companies. Therefore, the relevant sales prices compared are net resale prices to the first independent customer in the Community after deduction of discounts and rebates.
- (121) Different product families of the product concerned could be defined for comparison purposes based on the following criteria: product type (i.e. dies, components, modules), density, quality, DRAM type, performance (speed) and packaging.
- (122) The Community industry's sales prices and the resale prices of Korean imports of the like product were compared at the same level of trade, namely independent users within the Community market, and for the same time period on the basis of weighted average prices per product family. On this basis, it was found that price undercutting on an overall weighted average basis was not taking place. However, price undercutting was found to be taking place on a substantial proportion of transactions, namely 41 % of the transactions representing 32 % of the value of Hynix sales. This price undercutting, expressed as a percentage of the Community industry's prices, averaged 16,2 %.
- (123) It was also found in the case of Hynix that this undercutting was predominantly taking place on sales of the higher density DRAMs (the 128 Mbit and 256 Mbit DRAMs). These are the technologically more advanced DRAMs the comparatively higher sales returns of which are used to finance the next generation products.

(c) *Market share of imports from Korea*

- (124) Korea increased its market share over the period considered. There was a significant drop in the Korean market share between 1998 and 1999, but the market share was more than recovered by the end of the IP, when the Korean market share was almost 7 % more than the 1998 level. In the case of Hynix, its market share rose faster, i.e. by 20 % over the period. It is also reasonable to assume that the Hynix market share, in terms of Mbit, was somewhat constrained by its relative delay in moving from production of 64 Mbit to the 128 Mbit DRAMs.

Market shares	1998	1999	2000	2001 (IP)
Index Korea	100	80	91	107
Index Hynix	100	111	136	120

4. Situation of the Community industry

(a) *Production, capacity and capacity utilisation*

	1998	1999	2000	2001 (IP)
Capacity (Mbits) Index	100	179	631	1 213
Production (Mbits) Index	100	175	446	891
Capacity utilisation Index	100	97	70	73

- (125) The production capacity of the Community industry showed a 12-fold increase over the period considered. This is due to important investments in buildings, machinery and equipment, which were made particularly in 2000 and 2001 and were largely driven by the need to invest in new higher density DRAMs. These higher density DRAMs inevitably lead to a much higher capacity in terms of Mbits, particularly towards the end of the period considered when 64 Mbit capacity had largely been replaced by 128 Mbit capacity.
- (126) As a consequence of the steady expansion of Community consumption, the Community industry's production, of the product concerned, increased continuously over the period considered. Capacity utilisation followed a decreasing trend up to 2000 and increased slightly during the IP.

(b) *Sales volume, sales price, market share and growth*

Sales in the Community Mbits	1998	1999	2000	2001 (IP)
Index Volume	100	451	1 384	2 491
Index Average sales price	100	98	93	21
Index Market share	100	134	166	193

- (127) Based on the favourable evolution of Community consumption, the volume of sales of the Community industry in the Community in terms of Mbits significantly expanded over the period considered. The Community industry's sales volume showed a higher growth than the growth of Community consumption. This higher growth can be explained as Community production of the higher density 128 Mbit DRAMs moved slightly ahead of consumption thus showing an increased market share.
- (128) Whilst the average sales prices of the Community industry showed relatively small falls from 1998 to 2000, it fell dramatically by 77 % during the IP.
- (129) The Community industry almost doubled its market share over the period considered. In this respect, it should be noted that half this increase can be accounted for the fact that Micron Technology, after having acquired the Texas Instruments production plant in Italy in October 1998, replaced its earlier imports into the Community by Community production. In addition, some of the remaining increase results from the fact that the Community industry's move to higher density DRAMs was faster than that of the Korean exporters concerned. This move inevitably results in a considerable leap in capacity, and in effect also of sales which are measured in Mbits, given that each unit produced and sold is twice the previous size in terms of Mbits.

(c) *Stocks*

- (130) The Community industry's year-end stock levels as a percentage of production in Mbits varied over the period considered though it fell in the latter part of the period. The higher levels in the early part of the period examined were due to exceptional circumstances such as the start-up phase of one Community producer.

Stocks	1998	1999	2000	2001 (IP)
<i>Index</i>	100	156	75	56

(d) *Profitability*

- (131) The profitability of the Community industry expressed in terms of return on net sales improved significantly from 1998 to 2000. However, after becoming profitable in 2000 the Community industry made heavy losses in the IP.

Profitability	1998	1999	2000	2001 (IP)
<i>Index</i>	- 100	- 3	29	- 79

(e) *Investments, return on investment, cash flow and the ability to raise capital*

Investments	1998	1999	2000	2001 (IP)
<i>Index</i>	100	100	157	193
Return on investments				
<i>Index</i>	- 100	- 11	93	- 85
Cash flow				
<i>Index</i>	Not available	Not available	100	- 27

- (132) Investments of the Community industry over the period considered almost doubled. This is due to the peculiarities of the DRAM sector where production facilities must continuously be upgraded in order to lower costs of production. Maintaining reasonable investment levels is crucial for the Community industry in order for it to be able to maintain 'state-of-the-art' facilities and to remain competitive. However, the growth rate of investments slowed down during the IP as the dramatic decline of sales prices affected cash flow levels, which the Community industry relies on to sustain its investment levels.
- (133) The evolution of the Community industry's return on investment showed a clear deterioration of the financial situation of the Community industry.
- (134) Data on the Community industry's cash flow for 1998 and 1999 could not be obtained in an accurate manner as no comparable data was available for the years concerned. The cash flow figures obtained for 2000 and the IP reflect internal calculations for the business group within the Community industry to which the product concerned belongs. The evolution of the Community industry's cash flow as shown in the table above clearly confirms the deterioration of the financial situation of the Community industry during the IP as costs like depreciation, value adjustments and other provisions could no longer be supported. The continuation of the very significant investments that are vital for the Community industry to remain competitive and viable could therefore not be sustained at appropriate levels.
- (135) The Community industry's ability to raise capital was hindered by a negative cash flow and a gloomy outlook concerning the market price evolution of the product concerned. Moreover, funds from the capital markets could only be obtained at high cost given the recognition that the projected returns on investments would remain weak.

(f) *Employment and productivity*

Employment	1998	1999	2000	2001 (IP)
<i>Index</i>	100	121	146	176
Productivity				
<i>Index</i>	100	144	307	507

- (136) Employment for the product concerned and productivity per employee increased considerably over the period considered.

(g) *Magnitude of the subsidy amount*

- (137) Given the volume and the price of the subsidised imports, the impact of the subsidies on the Community industry must be considered to be substantial. The volume of the subsidised imports amounted to almost 50 % of the Community industry's sales volume. The sheer scale of the subsidy must have had a negative effect on the prices, which dropped as dramatically by 77 % between 2000 and the IP.

(h) *Effects from past subsidisation or dumping*

- (138) The question of whether the Community industry was in a state of recovery from past subsidisation or dumping was examined, but it was found not to be relevant in this case, as there was no evidence indicating past subsidies or dumping.

5. Conclusion on injury

- (139) Due to technological developments in the DRAM industry, demand in Mbit terms, has risen each year as the user industry changed over to higher density DRAMs to increase system performance. This growth of demand in Mbit terms explains why, during the period considered the Community industry benefited from the favourable evolution of the Community consumption of the product concerned in terms of sales volume and market share. In addition, it increased its market share. However, almost half the increase was the result of one Community producer replacing its share of imports from the United States, prior to 1998, with actual Community production thereafter.
- (140) In addition, the apparently higher increase of the market share of the Community industry can be explained to a certain extent by the fact that the sales volume measured in Mbits reflects the generally more advanced technological stage of the Community industry as compared with that of Korean exporters. That is, the Community industry moved more swiftly from production of 64 Mbit DRAMs to production of 128 Mbit DRAMs than at least one of their Korean counterparts. This results in a considerable leap in capacity, and thereafter sales (which are measured in Mbits), given that each unit produced and sold is twice the previous size in terms of Mbits.
- (141) The sales prices of the Community industry, however, fell dramatically between the year 2000 and the IP, i.e. by 77 % and this fall had immediate and very serious consequences for the Community industry. The impact of the massive fall in prices during the IP was quickly reflected in negative effects on cash flow, profitability and return on investment of the Community industry and hence the ability to raise capital. The effect on profitability was huge since during the IP, every unit was sold with heavy losses which on average amounted to 96 %. Although investments of the Community industry as well as productivity and employment grew in absolute terms during the period considered, the levels fell well short of what is normal for this industry to remain competitive, to maintain the state of art facilities, to continue with a high level of investments on research and development and to keep abreast with leading-edge technology.
- (142) Taking into account all the factors mentioned above, it is provisionally concluded that the Community industry has suffered material injury within the meaning of Article 8 of the basic Regulation. Though the position of the Community industry improved in certain respects

during the period because of the growing market for DRAMs, this was more than offset by the very substantial injury caused by the drastic drop in sales prices and the consequent heavy losses suffered by the producers.

F. CAUSATION OF INJURY

1. Introduction

- (143) In accordance with Article 8(6) and (7) of the basic Regulation, the Commission examined whether the subsidised imports of the product concerned originating in Korea have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the subsidised 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 subsidised imports.

2. Effect of the subsidised imports

- (144) Community consumption of the product concerned increased four-fold over the period considered. Production by the Community industry increased nine-fold over the same period whereas subsidised imports originating in Korea only increased at a slightly higher pace than the Community consumption. Over the same period, the development of market shares followed the same trend. The evolutions of market share and production of the Community industry during the period considered were influenced by the fact that the Community industry replaced its share of imports from the United States prior to 1998 with actual Community production thereafter. Furthermore, the Community industry increased its market share also by absorbing market shares from Japanese producers. Moreover, the faster investments made by the Community industry (from 64 Mbit DRAMs to 128 and 256 Mbit DRAMs) as compared to their Korean counterparts, has meant that they have inevitably increased their production and market shares in terms of Mbits.
- (145) The investigation found that the average import prices of Hynix over the period considered fell very sharply, i.e. by 80 % and that the prices of the Community industry fell by a similar rate. In fact, it was found that during the IP, the Korean import prices and those of the Community industry were, on average, largely at the same level. This can be explained by the fact that the DRAM market is fully price transparent and price moves by one producer are almost immediately followed by other producers so that it is difficult to establish a price leader.

(146) This fall in prices can, to a limited extent, be explained by the slowdown in market growth but it is reasonable to assume that other reasons may have been responsible for the sheer magnitude and suddenness of this drop. During the IP, the Community prices suddenly dropped by 77 %, to levels where massive losses of 96 % were being sustained by the Community industry.

(147) By the middle of year 2001 it was becoming increasingly clear that the first bail-out of Hynix would not be sufficient for the company to survive. This perception confirmed the market's fears that the existing world overcapacity (approximately 20 %) would continue for the foreseeable future⁽¹⁾. It also became clear that government intervention was a distinct possibility and these events coincided with a very sharp and sudden fall in prices both in the Community and worldwide.

(148) Moreover, a closer examination of prices showed that Hynix's import prices were undercutting the prices of the Community industry on a substantial proportion of its transactions (i.e. 41 % by number of transactions and 32 % by value) and can thus be said to have contributed significantly to the fall in prices of the Community producers during the IP. The most damaging aspect of this undercutting was that it was focussed mainly on the higher density DRAMs the higher returns from which the Community industry would under normal circumstances use to finance the next generation DRAMs. This industry can only remain competitive if sufficient investments are made in the development of DRAMs technology. It is considered likely that but for the subsidies received, Hynix could not have been able to survive in the market and sell at these aggressively below cost prices. Moreover, various market analysts have recognised that Hynix's precarious financial situation meant that selling was absolutely essential irrespective of the price. This was in order to generate cash flow to serve its considerable debts and to be able to maintain the high level of capacity utilisation to keep its unit costs down⁽²⁾. Accordingly, during the IP, Hynix had all incentive to sell at whatever price in the Community, thereby contributing to the injury.

(149) It is therefore concluded that the subsidisation has led in a very substantial way to the very low price levels on the Community market. Without the subsidies in question it is reasonable to assume that prices would have been higher and that Hynix would not have been able to charge the very low prices that they practised in the IP, and which as a result forced the Community industry to

continuously adapt their prices downwards. Moreover, these low-priced subsidised imports had a significant negative impact on the situation of the Community industry.

3. Impact of other factors

(a) General economic downturn during the IP

(150) Despite the general economic downturn of the PC and telecommunication markets in 2001, consumption of the product concerned continued its upward trend though at levels below those applicable before the downturn. The increased consumption in terms of Mbits stemmed to a large degree from the introduction of Microsoft XP, which has much higher Mbit requirements than previous systems, and increased sales of 'upgrade' products generated by the low prices. Whilst the economic downturn may have had some downward effect on prices, it can be assumed that, with consumption rising, this effect was not substantial.

(b) Imports of the product concerned from other countries than Korea

(151) The imports of the product concerned from other countries (e.g. United States of America, Japan, Taiwan) in market share terms dropped from 41 % to 20 % during the period considered. This drop of market share reflects the fact that some producers closed down their operations. The lost market share of third countries was to a large extent taken over by the Community industry, though as indicated above the move in market share is somewhat exaggerated both by the Mbit measurement and the faster move to more sophisticated technology by the Community industry. There is no evidence that imports from countries, other than Korea, contributed in any significant way to the injury suffered by the Community industry.

(c) Export activity of the Community industry

(152) The evolution of export volume and prices of the Community industry during the period considered is in line with the evolution of its sales in the Community over the same period. However, given the lower volume of exports in relation to the volume of sales in the Community during the IP, the injury suffered by the Community industry cannot be attributed to its exports.

⁽¹⁾ Hynix counted for 17 % of world production during the IP.

⁽²⁾ International analysts share this view. See J.P. Morgan, September 2002, Morgan Stanley, September 2002.

(d) *Overcapacity*

- (153) The worldwide DRAM market still suffers from structural over-capacity resulting from the expectations of the late 1990s that the market would continue its rapid growth. This over-capacity can be said to have contributed to the severity of the current downturn from which this industry is suffering. As is the case with all downturns, it is reasonable to assume that this one had downward effect on prices. However, it is also reasonable to assume, that had the Korean government not intervened with the subsidies, the situation in both Community and worldwide as regards overcapacity would not have been so pronounced. It should be noted that during the IP, Hynix was the third biggest DRAM producer in the world (around 17 % of world production) after Samsung and Micron. Furthermore, the over-capacity existed, albeit to varying degrees, throughout the period considered, but only during the IP did prices suddenly drop very sharply. Hence, it is considered that the overcapacity as such did not significantly contribute to injury.

4. Conclusion on causation

- (154) Factors other than the subsidised imports originating in Korea, such as the general economic downturn, the export activity of the Community industry and the over-capacity in the market, may well have contributed to the injury which the Community industry was found to be suffering from during the IP. However, the general economic downturn could not have had a significant effect on the situation of the Community industry since the Community consumption continued to increase.
- (155) The reduced prices of the Community industry's export sales may have also contributed to the injury. However, given the lower volume of exports in relation to the volume of sales in the Community during the IP, the injury suffered by the Community industry cannot be attributed to its exports.
- (156) As far as over-capacity is concerned, this worldwide situation existed during a number of years including the period considered. Therefore, this overcapacity cannot be considered as the main cause of the very significant sudden drop in prices which led to the injury suffered by the Community industry.
- (157) However, the investigation has shown that during the period considered subsidised imports originating in Korea were sold on the Community market at prices which caused very considerable injury to the Commu-

nity industry. These imports were found to be a substantial cause of prices in the Community falling dramatically to levels which generated huge losses. This situation had grave consequences on the profitability of the Community industry and its ability to maintain the necessary investment levels. In view of the analysis, which has properly distinguished and separated the effects of all known factors on the situation of the Community industry from the injurious effects of the subsidised imports, it is provisionally concluded that these other factors are not such as to break the causal link between subsidisation and injury. Accordingly, it is provisionally concluded that these imports have caused material injury to the Community industry within the meaning of Article 8(6) of the basic Regulation.

G. COMMUNITY INTEREST

1. Introduction

- (158) The Commission examined whether, despite the conclusions on injurious subsidisation, compelling reasons existed that could lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose, and pursuant to Article 31(1) of the basic Regulation, the impact of possible measures on all interests concerned by this proceeding and also the consequences of not taking measures were considered on the basis of all evidence submitted.
- (159) In order to assess the likely impact of the imposition of measures, information was requested from all interested parties. The Commission sent questionnaires to unrelated importers and users of the product concerned. In total, eight questionnaires were sent to unrelated importers and 37 to users.
- (160) Questionnaire responses were received within the time limits from five users (i.e. Dane-Elec Memory, France; Dataram International ApS, Denmark; MMT Ltd, United Kingdom; Olidata SpA., Italy and Time Group, United Kingdom) and two distributors/unrelated importers (i.e. Avnet BV, Netherlands and CHI, Austria).
- (161) Two cooperating users (i.e. Dane-Elec Memory and MMT Ltd) failed to provide a non-confidential version of their questionnaire reply and one cooperating unrelated importer (i.e. Avnet BV) did not import the product concerned during the IP. Therefore, their questionnaire replies were not taken into account further in the investigation.

2. Interest of the Community industry

- (162) The situation of the Community industry has deteriorated sharply due to the low-priced subsidised imports of the product concerned from Korea which has led to very low prices and huge losses. These, in turn, are adversely affecting the ability of the Community industry both to remain profitable and to invest in order to remain competitive.
- (163) The Community industry is viable under normal market conditions following substantial rationalisation over the last decade. The number of producers has fallen from seven to two in that period. The existing Community producers have made great efforts to keep at the front end of technological developments for this product and they are now considered to be very competitive in world terms.
- (164) The DRAM industry is considered an important high-technology industry. Unless countervailing measures are imposed, the precarious financial situation of the Community industry will deteriorate to a point where its very existence could be at risk. Under normal economic conditions producers cannot sustain the very heavy losses which they are currently incurring for very long. The disappearance of the two remaining Community producers would adversely affect the level of competition because the Community supply for the product concerned would become dependent on imports by only a few producers operating outside the Community. Furthermore, the negative impact on employment will be significant if this technologically advanced industry with more than 10 000 employees at the time being would disappear. It is noted that the market entry costs are high and re-entry by existing producers or even by new ones would be highly unlikely.
- (165) It should be noted that the United States imposed provisional countervailing measures on DRAMs originating in Korea recently. Under the circumstances, these measures would have led to significant diversion of trade from the United States market to the Community if measures had not been imposed by the Community.
- (166) The adoption of countervailing measures would re-establish fair competition in the DRAM market in the Community by preventing further price depression caused by unfairly subsidised Korean imports. The Community industry could then renew and even enhance its previous levels of investment and maintain its competitiveness.

3. Interest of users and distributors

- (167) As regards the users, only three of the 37 users cooperated with the investigation. These cooperating users represent according to the information provided around

1 % of the Community consumption. The absence of cooperation by the vast majority of users in this case leads to the conclusion that should any measures be imposed, they will not have any significant impact on their situation.

- (168) The available information indicates that even if the DRAMs prices in the Community would increase by the full countervailing duty rate, the impact on the prices of PCs will be limited to around 1 %. However, all cooperating parties recognised that the imposition of measures will only have a limited impact on DRAM prices at least in the short-term, mainly because of the chronic overcapacity which exists worldwide. It is therefore expected that users and consumers would not be significantly affected by the imposition of countervailing measures.
- (169) The sole cooperating distributor stated that it is against the imposition of countervailing measures as the limited DRAMs availability of the Community industry, could only result in an increased market share of third countries producers and in particular Taiwanese producers.
- (170) The argument put forward by the cooperating distributor is not persuasive. In fact, the Community industry still has significant spare capacity available which can be used if the market conditions allow fair competition.
- (171) The Commission also notes that there is no indication that the re-establishment of open and fair market conditions would prevent producers in third countries from competing in the Community market. The countervailing measures would merely remove the distortion of competition arising from subsidies and allow a faster recovery from the current very heavy losses. In a stable market, increasing productivity from non-subsidised suppliers should increase output of technologically advanced DRAMs at very competitive prices. Indeed, where the level of the countervailing measures is equal to the subsidy amount, but lower than the amount required to remove fully the injury, it is only the unfair element of the exporters' price advantage which will be eliminated. In such a situation, the exporters can fully compete on the basis of their actual competitive advantage.
- (172) As already indicated above, the non-imposition of measures may lead to the disappearance of a high-skilled technologically advanced industry which in turn would reduce the level of competition and increase the dependence of the electronics and telecommunications industry in the Community on supplies from third countries.

- (173) This indicates that neither users nor consumers would be unduly affected by the imposition of measures.

4. Conclusion on Community interest

- (174) On the basis of the above, it is concluded that the imposition of provisional countervailing measures would not be against the Community interest.

H. PROVISIONAL COUNTERVAILING MEASURES

1. Injury elimination level

- (175) In view of the conclusions reached with regard to subsidy, injury, causation and Community interest, provisional measures should be taken in order to prevent further injury being caused to the Community industry by the subsidised imports.
- (176) For the purpose of establishing the level of the provisional measures, account has been taken of both the subsidy amount found and the amount of injury sustained by the Community industry.
- (177) The provisional measures should be imposed at a level sufficient to eliminate the injury caused by these imports without exceeding the subsidy amount established. When calculating the amount of duty necessary to remove the effects of the injurious subsidies, it was considered that any measures should allow the Community industry to cover its costs and obtain overall a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of subsidised imports, on the sales of the like product in the Community. The pre-tax profit margin used for this calculation was 15 % which is necessary for the industry to maintain reasonable levels of investment.
- (178) It is noted that the product life of DRAMs is short and that the industry needs substantial profits in order to finance the necessary annual investments (at a range of EUR billion) in order to simply remain competitive. It is also noted that during the last profitable period the Community industry realised much higher profits than 15 % on net turnover. Therefore, the 15 % is considered a reasonable profit margin in this context. It could be even argued that a higher profit level would have been more appropriate. However, it was not necessary to address this issue in view of the findings set out in the next recitals.
- (179) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the undercutting calculations, with the non-injurious price of the different models sold

by the Community industry on the Community market. The non-injurious price per model has been obtained by adding the above mentioned profit margin of 15 % to the cost of production per model. Any difference resulting from this comparison was then expressed as a percentage of the total cif import value. These differences were in all cases above the subsidy amount established.

2. Provisional measures

- (180) As the injury elimination level is higher than the subsidy amount established, the provisional measures should be based on the latter. The rate of the provisional countervailing duty should therefore be set at 33 %. No duty should be imposed on Samsung Electronics Co., Ltd.

I. FINAL PROVISION

- (181) In the interests of 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 countervailing duty is hereby imposed on imports of certain electronic microcircuits known as dynamic random access memories (DRAMs), of all types, densities and variations, whether assembled, in processed wafer or chips (dies), manufactured using variations of metal oxide-semiconductors (MOS) process technology, including complementary MOS types (CMOS), of all densities (including future densities), irrespective of access speed, configuration, package or frame etc. This also includes DRAMs presented in (non-customised) memory modules or (non-customised) memory boards, or in some other kind of aggregate form, provided the main purpose of which is to provide memory, currently classifiable within CN codes 8542 21 11, 8542 21 13, 8542 21 15, 8542 21 17, ex 8542 21 01 (TARIC code 8542 21 01 10), ex 8542 21 05 (TARIC code 8542 21 05 10), ex 8548 90 10 (TARIC code 8548 90 10 10), ex 8473 30 10 (TARIC code 8473 30 10 10) and ex 8473 50 10 (TARIC code 8473 50 10 10), originating in the Republic of Korea.

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

Korean exporters	Rate of duty (%)	TARIC additional code
Samsung Electronics Co., Ltd 24th Fl., Samsung Main Bldg 250, 2-Ga, Taepyeong-Ro, Jung-Gu, Seoul	0 %	A437
All other companies	33 %	A999

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

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.

Article 2

Without prejudice to Article 30 of Regulation (EC) No 2026/97, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within 20 days of the date of entry into force of this Regulation.

Pursuant to Article 31(4) of Regulation (EC) No 2026/97, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

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

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

Done at Brussels, 23 April 2003.

For the Commission

Pascal LAMY

Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 18 March 2003

concerning the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions

(2003/285/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, in conjunction with Article 300(2), first subparagraph, first sentence thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part ⁽¹⁾, provides for certain reciprocal trade concessions for certain agricultural products.
- (2) Article 20(5) of the Europe Agreement provides that the Community and Hungary shall examine product by product and on an orderly and reciprocal basis the possibilities of granting each other further concessions.
- (3) The first improvements to the preferential arrangements of the Europe Agreement with Hungary were provided for in the Protocol for the adaptation of the trade aspects of the Europe Agreement to take into account the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the results of the agricultural negotiations of the Uruguay Round, including improvements to the existing preferential arrangements, approved by Decision 1999/67/EC ⁽²⁾.
- (4) Improvements to the preferential arrangements were also provided for as a result of negotiations to liberalise agricultural trade concluded in 2000. On the Community side, these were implemented from 1 July 2000 by Regulation (EC) No 1727/2000 of 31 July 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Hungary ⁽³⁾. This second adjustment of the preferential arrangements has not yet been incorporated in the Europe Agreement in the form of an Additional Protocol.
- (5) Negotiations for further improvements to the preferential arrangements of the Europe Agreement with Hungary were concluded on 25 April 2002. The results of the negotiations have so far been implemented by the respective parties in the form of autonomous measures. On the Community side, the autonomous measures were implemented by Council Regulation (EC) No 1408/2002 of 29 July 2002 establishing concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Hungary ⁽⁴⁾. Similar legislative measures were adopted and implemented by the Republic of Hungary.
- (6) The new Protocol to the Europe Agreement adjusting the trade aspects of the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part (hereinafter referred to as the Protocol) should be approved with a view to consolidating all concessions in agricultural trade between the two sides, including the results of the negotiations concluded in 2000 and 2002.

⁽¹⁾ OJ L 347, 31.12.1993, p. 2.

⁽²⁾ OJ L 28, 2.2.1999, p. 1.

⁽³⁾ OJ L 198, 4.8.2000, p. 6.

⁽⁴⁾ OJ L 205, 2.8.2002, p. 9.

- (7) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽¹⁾ has codified the management rules for tariff quotas designed to be used following the chronological order of dates of customs declarations. Certain tariff quotas under this Decision should therefore be administered in accordance with those rules.
- (8) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (9) As a result of the aforementioned negotiations, Regulation (EC) No 1408/2002 has been superseded and should therefore be repealed,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions, is hereby approved on behalf of the European Community.

Article 2

1. The President of the Council is hereby authorised to designate the person empowered to sign the Protocol on behalf of the Community in order to bind the Community.
2. The President of the Council shall, on behalf of the Community, make the notification of approval provided for in Article 4 of the Protocol.

Article 3

Upon this Decision taking effect, the arrangements provided for in the Annexes to the Protocol attached to this Decision shall replace those referred to in Annexes VIII and IX as

referred to in Article 20(2) and 20(3), as amended, of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part.

The Commission shall adopt detailed rules for the application of the Protocol in accordance with the procedure referred to in Article 5(2).

Article 4

The order numbers as attributed to the tariff quotas in the Annex to this Decision may be changed by the Commission in accordance with the procedure referred to in Article 5(2). Tariff quotas with an order number above 09.5100 shall be administered by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 5

1. The Commission shall be assisted by the Management Committee for Cereals instituted by Article 23 of Regulation (EEC) No 1766/92 ⁽³⁾ or, where appropriate, by the committee instituted by the relevant provisions of the other Regulations on the common organisation of agricultural markets.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

Article 6

Regulation (EC) No 1408/2002 shall be repealed from the entry into force of the Protocol.

Done at Brussels, 18 March 2003.

For the Council

The President

G. PAPANDEOU

⁽¹⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 444/2002.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

⁽³⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1666/2000 (OJ L 193, 29.7.2000, p. 1).

ANNEX

Order numbers for EU tariff quotas for products originating in Hungary

(as referred to in Article 4)

Quota order No	CN code	Description
09.4598	0102 90 05	Live bovine animals of a live weight not exceeding 80 kg
09.4537	0102 90 21 0102 90 29 0102 90 41 0102 90 49	Live bovine animals of a live weight exceeding 80 kg but not exceeding 300 kg
09.4563	ex 0102 90	Heifers and cows not for slaughter of the following mountain breeds: grey, brown, yellow, spotted Simmental and Pinzgau
09.4707	0201 0202	Meat of bovine animals, fresh, chilled or frozen
09.4708	ex 0203	Meat of domestic swine, fresh, chilled or frozen
09.4774	0206 10 95 0202 29 91 0210 20 10 0210 20 90 0210 99 51 0210 99 59 0210 99 90	Edible offal of bovine animals, fresh or chilled, thick skirt and thin skirt Edible offal of bovine animals, frozen, other, thick skirt and thin skirt Meat of bovine animals, salted, in brine, dried or smoked Thick skirt and thin skirt of bovine animals Other offal of bovine animals Edible flours and meals of meat or meat offal
09.5861	0207 11 30 0207 11 90 0207 12 0207 13 50 0207 14 50 0207 13 60 0207 14 60 0207 13 10 0207 14 10 0207 26 10 0207 27 10 0207 26 50 0207 27 50 0207 32 11 0207 32 15 0207 32 19 0207 33 11 0207 33 19 ex 0207 35 15 ex 0207 36 15 ex 0207 35 53 ex 0207 36 53 ex 0207 35 63 ex 0207 36 63 ex 0207 35 79 ex 0207 36 79	Chicken carcasses Breasts of chicken Legs of chicken Boneless cuts of chicken Boneless cuts of turkey Breasts of turkey Ducks Cuts of ducks, boneless Breasts and cuts thereof of ducks, with bone-in Legs and cuts thereof of ducks, with bone-in Breasts and cuts thereof of ducks, the ribs of which have been partially or completely removed

Quota order No	CN code	Description
	0207 32 51 0207 32 59 0207 33 51 0207 33 59 0207 35 11 0207 35 23 0207 35 51 0207 35 61 0207 36 11 0207 36 23 0207 36 51 0207 36 61	Geese
	ex 0207 35 31 ex 0207 36 31	Whole wings of geese, with or without tips
	ex 0207 35 41 ex 0207 36 41	Backs, necks, backs with necks attached, rumps and wing tips of geese
	ex 0207 35 71 ex 0207 36 71	Paletots of geese
	ex 0207 35 79 ex 0207 36 79	Breasts and cuts thereof of geese, the ribs of which have been partially or completely removed
09.4704	0210 11 11 0210 12 11 0210 19 40 0210 19 51	Meat of domestic swine, salted or in brine
09.5501	ex 0210 99 39 ex 0210 99 80	Poultry, dried or smoked
09.4775	0401 0402	Milk and cream, not concentrated, nor containing added sugar or other sweetening matter Milk and cream, concentrated or containing added sugar or other sweetening matter
09.4776	0403 10 11 to 0403 10 39 0403 90 11 to 0403 90 69	Yoghurt, not flavoured nor containing added fruit, nuts or cocoa Buttermilk, curdled milk and cream, kephir and other fermented or acidified milk and cream, not flavoured nor containing added fruit, nuts or cocoa
09.4777	0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents; whether or not containing added sugar or other sweetening matter, nor elsewhere specified or included
09.4778	0405 10 0405 20 90 0405 90	Butter Dairy spreads of a fat content, by weight of > 75 % but < 80 % Other fats and oils derived from milk
09.4733	0406	Cheese and curd
09.5866	0407 00 30	Eggs of poultry in shell, not for hatching
09.5867	0408 91 80	Eggs, dried, for human consumption
09.5503	ex 0702 00 00	Tomatoes, from 1 to 31 October
09.5105	0703 10 11 0703 10 19	Onions
09.5557	0704 90 10	White cabbages and red cabbages

Quota order No	CN code	Description
09.5127	ex 0707 00 05	Cucumbers, from 1 November to 15 May
09.5141	0710 21 00	Peas, frozen
09.5149	0710 80 95	Other vegetables, frozen
09.5151	0710 90 00	Mixtures of vegetables, frozen
09.511	ex 0806 10 10	Table grapes from 15 July to 31 October
09.5571	0807 11 00 0807 19 00	Melons, including watermelons
09.5157	0808 10 10	Cider apples, in bulk from 16 September to 15 December
09.5159	0808 10 20 0808 10 50 0808 10 90	Apples, other than cider apples
09.5513	0808 20 10 0808 20 50	Pears
09.5865	0812 90 30 0812 90 99	Papaws (papayas) and other fruit and nuts, provisionally preserved
09.5575	0904 20 10	Sweet peppers, neither crushed or ground
09.4779	1001 1101 1103 11 10 1103 11 90 1103 20 60	Wheat and meslin Wheat or meslin flour Durum wheat groats and meal Common wheat and spelt groats and meal Wheat pellets
09.5862	1002 00 00 1102 10 00 1103 19 10 1103 20 10	Rye Rye flour Rye groats and meal Rye pellets
09.5863	1003 1102 90 10 1103 19 30 1103 20 20	Barley Barley flour Barley groats and meal Barley pellets
09.5864	1004 00 00 1102 90 30 1103 19 40 1103 20 30	Oats Oat flour Groats and meal of oats Pellets of oats
09.4780	1005 10 90 1005 90 00 1102 20 10 1102 20 90 1103 13 10 1103 13 90 1103 20 40	Other than hybrid maize seed Maize other than seed Maize flour with fat content of $\leq 1,5$ % by weight Maize flour with fat content of $> 1,5$ % by weight Groats and meal of maize Maize pellets

Quota order No	CN code	Description
09.5297	1109 00 00	Wheat gluten
09.4727	1501 00 19	Pig fat (including lard), other
09.5172	1512 11 10	Sunflower seed oil
09.5173	1512 11 91	
09.5174	1512 19 10	
09.4705	1601 00 91 1601 00 99	Sausages, dry or other
09.4706	1602 41 10 1602 42 10 1602 49 11 1602 49 13 1602 49 15 1602 49 19 1602 49 30 1602 49 50	Other preparations, preserved meat of domestic swine
09.5705	1602 50 10 1602 50 31 1602 50 39 1602 50 80	Other prepared or preserved meat or meat offal of bovine animals
09.5298	1702 30 1702 40	Glucose and glucose syrup
09.5177	2002 90 31 2002 90 39	Preserved tomatoes
09.5179	2002 90 91 2002 90 99	Preserved tomatoes
09.5521	2005 40 00	Peas ' <i>Pisum sativum</i> ' prepared or preserved otherwise than by vinegar or acetic acid (excluding frozen)
09.5181	2005 90 75	Sauerkraut
09.5189	ex 2007 99 31 2007 99 33 2007 99 35	Sour cherry jam Strawberry jam Raspberry jam
09.5205	2009 80 11 2009 80 32 2009 80 33 2009 80 35 2009 80 61 2009 80 83 2008 80 84 2009 80 86	Fruit juice
09.5299	2303 10 11	Residues of starch from maize
09.5716	ex 2309 10	Dog or cat food, put up for retail sale excluding CN codes 2309 10 11, 2309 10 31, 2309 10 51, 2309 10 90
09.5207	2401 10 2401 20	Tobacco

PROTOCOL**adjusting the trade aspects of the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, to take account of the outcome of negotiations between the Parties on new mutual agricultural concessions**

THE EUROPEAN COMMUNITY, hereinafter referred to as the Community,

of the one part, and

THE REPUBLIC OF HUNGARY,

of the other part,

Whereas:

- (1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary of the other part (hereinafter referred to as the Europe Agreement) was signed in Brussels on 16 December 1991 and entered into force on 1 February 1994 ⁽¹⁾.
- (2) Article 20(5) of the Europe Agreement provides that the Community and the Republic of Hungary shall examine in the Association Council, product by product and on an orderly and reciprocal basis, the possibility of granting each other additional agricultural concessions. On this basis negotiations have been undertaken and were concluded between the parties.
- (3) Improvements to the preferential agricultural regime of the Europe Agreement were for the first time provided for in the Protocol adjusting trade aspects of the Europe Agreement ⁽²⁾ to take account of the last enlargement of the Community and the outcome of the GATT Uruguay Round.
- (4) Two further rounds of negotiations for improved agricultural trade concessions were concluded on 14 April 2000 and 25 April 2002.
- (5) From the one side, the Council decided, by virtue of Regulation (EC) No 1408/2002 ⁽³⁾ to apply on a provisional basis the European Community concessions resulting from the 2000 and the 2002 rounds of negotiations and from the other side the Government of the Republic of Hungary took similar legislative provisions to apply the equivalent Hungarian concessions by virtue of Joint Ministerial Decrees No 1/2000, 16/2002 and 17/2002 of the Minister of Foreign Affairs and the Minister of Finance of Hungary ⁽⁴⁾.
- (6) The abovementioned concessions will be replaced on the date of entry into force of this Protocol by the concessions provided for herein,

HAVE AGREED AS FOLLOWS:

Article 1

The arrangements for import into the Community applicable to certain agricultural products originating in the Republic of Hungary as set out in Annex A(a) and A(b) and the arrangements for import into the Republic of Hungary applicable to certain agricultural products originating in the Community as set out in Annex B(a) and B(b) to this Protocol shall replace those set out in Annexes VIII and IX as referred to in Article 20(2) and (3), as amended, of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part.

⁽¹⁾ OJ L 347, 31.12.1993, p. 2.

⁽²⁾ OJ L 28, 2.2.1999, p. 1.

⁽³⁾ OJ L 205, 2.8.2002, p. 9.

⁽⁴⁾ Hungarian Official Journal (MK) No 81, 4.8.2000, p. 5086 and Hungarian Official Journal (MK) No 122, 20.9.2002, p. 6613 and p. 6616.

Article 2

The Annexes to this Protocol shall form an integral part thereof.

This Protocol shall form an integral part of the Europe Agreement.

Article 3

This Protocol shall be approved by the Community and the Republic of Hungary in accordance with their own procedures. The Contracting Parties shall take the necessary measures to implement this Protocol.

Article 4

This Protocol shall enter into force on the first day of the first month following the Contracting Parties' notification of the accomplishment of the corresponding procedures according to Article 3.

Quantities of goods subject to tariff quotas and released for free circulation as from 1 July 2002 under the concessions provided for in Annex A(b) to Regulation (EC) No 1408/2002 and Annex I of Joint Ministerial Decree No 17/2002 of the Minister of Foreign Affairs and the Minister of Finance of Hungary shall be fully counted against the quantities provided for Annex A(b) and B(b) to the attached Protocol, except for quantities for which import licences were issued before 1 July 2002.

Article 5

This Protocol shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Hungarian languages, each of these texts being equally authentic.

Hecho en Bruselas, el cuatro de abril de dos mil tres.

Udfærdiget i Bruxelles den fjerde april to tusind og tre.

Geschehen zu Brüssel am vierten April zweitausendunddrei.

Έγινε στις Βρυξέλλες, στις τέσσερις Απριλίου δύο χιλιάδες τρία.

Done at Brussels on the fourth day of April in the year two thousand and three.

Fait à Bruxelles, le quatre avril deux mille trois.

Fatto a Bruxelles, addì quattro aprile duemilatre.

Gedaan te Brussel, de vierde april tweeduizenddrie.

Feito em Bruxelas, em quatro de Abril de dois mil e três.

Tehty Brysselissä neljäntenä päivänä huhtikuuta vuonna kaksituhattakolme.

Som skedde i Bryssel den fjärde april tjugohundratre.

Készült Brüsszelben 2003 április 4.-én.

ANNEX A(a)

Custom duties on imports applicable in the Community to products originating in Hungary and listed below shall be abolished — CN codes ⁽¹⁾

0101 10 90	0604 91 21	0711 40 00	0811 90 50	1209 91	1602 20 11
0101 90 19	0604 91 29	0711 90 10	0811 90 70	1209 99 91	1602 20 19
0101 90 30	0604 91 41	0711 90 50	0811 90 75	1209 99 99	1602 31 11
0101 90 90	0604 91 49	0711 90 90	0811 90 80	1210 10 00	1602 31 19
0105 11 11	0604 91 90	0712 20 00	0811 90 85	1210 20 10	1602 31 30
0105 11 19	0604 99 90	0712 31 00	0811 90 95	1210 20 90	1602 31 90
0105 11 91	0701 10 00	0712 32 00	0812 10 00	1211 90 30	1602 32 19
0105 11 99	0703 10 90	0712 33 00	0812 90 10	1212 10 10	1602 41 90
0105 12 00	0703 20 00	0712 39 00	0812 90 20	1212 10 99	1602 42 90
0105 19 20	0703 90 00	0712 90 05	0812 90 40	1214 90 10	1602 49 90
0105 19 90	0704 20 00	0712 90 30	0812 90 50	1302 12 00	1602 90 10
0106 19 10	0704 90 90	0712 90 50	0812 90 60	1302 13 00	1602 90 31
0106 39 10	0705 19 00	0712 90 90	0812 90 70	1302 19 05	1602 90 41
0205 00	0705 21 00	0713 50 00	0813 10 00	1501 00 90	1602 90 69
0206 80 91	0705 29 00	0713 90	0813 20 00	1502 00 90	1602 90 72
0206 90 91	0706 90	0714 20	0813 30 00	1503 00 19	1602 90 74
0207 13 91	0707 00 90	0714 90 90	0813 40 10	1503 00 90	1602 90 76
0207 14 91	0708 10 00	0802 11 90	0813 40 30	1504 10 10	1602 90 78
0207 26 91	0708 90 00	0802 12 90	0813 40 95	1504 10 99	1602 90 98
0207 27 91	0709 20 00	0802 21 00	0813 50	1504 20 10	1603 00 10
0207 35 91	0709 30 00	0802 22 00	0814 00 00	1504 30 10	2001 10 00
0207 36 89	0709 40 00	0802 31 00	0901 12 00	1508 10 90	2001 90 50
0208 10 11	0709 51 00	0802 32 00	0901 90 90	1508 90	2001 90 60
0208 10 19	0709 52 00	0802 40 00	0904 12 00	1511 10 90	2001 90 65
0208 20 00	0709 59	0802 50 00	0904 20 90	1511 90	2001 90 70
0208 30 00	0709 60 10	0802 90 50	0905 00 00	1512 11 99	2001 90 75
0208 40	0709 70 00	0802 90 60	0907 00 00	1512 19 99	2001 90 85
0208 50 00	0709 90 10	0802 90 85	0910 20 90	1512 21	2001 90 91
0208 90 10	0709 90 20	0805 10 80	0910 40 13	1512 29	2001 90 93
0208 90 55	0709 90 31	0805 50 90	0910 40 19	1513 11 10	2001 90 96
0208 90 60	0709 90 40	0806 20	0910 40 90	1513 11 91	2003 20 00
0208 90 95	0709 90 50	0808 20 90	1006 10 10	1513 11 99	2003 90 00
0210 91 00	0709 90 90	0809 40 90	1007 00 10	1513 19	2004 90 30
0210 92 00	0710 10 00	0810 10 00	1106 10 00	1513 21	2004 90 50
0210 93 00	0710 22 00	0810 40 30	1106 30	1513 29	2004 90 91
0210 99 10	0710 29 00	0810 40 50	1107 10	1515	2005 51 00
0210 99 79	0710 30 00	0810 40 90	1107 20 00	1516 10	2005 59 00
0407 00 11	0710 80 51	0810 50 00	1108 20 00	1516 20 91	2005 60 00
0407 00 19	0710 80 59	0810 60 00	1208 10 00	1516 20 95	2005 70 10
0409 00 00	0710 80 61	0810 90 95	1209 10 00	1516 20 96	2005 90 50
0410 00 00	0710 80 69	0811 10 19	1209 21 00	1516 20 98	2005 90 60
0601	0710 80 70	0811 20 59	1209 23 80	1518 00 31	2005 90 70
0602	0710 80 80	0811 20 90	1209 29 50	1518 00 95	2005 90 80
0603	0710 80 85	0811 90 31	1209 29 80	1522 00 91	2006 00 91
0604 10 90	0711 30 00	0811 90 39	1209 30 00	1601 00 10	

⁽¹⁾ As defined in Commission Regulation (EC) No 1832/2002 of 1 August 2002, amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 290, 28.10.2002, p. 1).

2006 00 99	2008 30 79	2008 80 31	2008 99 19	2009 49 30	2009 90 41
2007 99 10	2008 30 90	2008 80 39	2008 99 23	2009 50	2009 90 49
2007 99 91	2008 50 11	2008 80 50	2008 99 25	2009 71	2009 90 51
2007 99 93	2008 50 31	2008 80 70	2008 99 26	2009 79 19	2009 90 59
2008 11 92	2008 50 39	2008 80 91	2008 99 28	2009 79 30	2009 90 73
2008 11 94	2008 50 59	2008 80 99	2008 99 36	2009 79 93	2009 90 79
2008 11 96	2008 50 61	2008 92 12	2008 99 37	2009 79 99	2009 90 95
2008 11 98	2008 50 69	2008 92 14	2008 99 38	2009 80 19	2009 90 95
2008 19	2008 50 71	2008 92 32	2008 99 40	2009 80 36	2009 90 96
2008 20 19	2008 50 79	2008 92 34	2008 99 43	2009 80 38	2009 90 97
2008 20 39	2008 50 92	2008 92 36	2008 99 45	2009 80 50	2009 90 98
2008 20 51	2008 50 94	2008 92 38	2008 99 46	2009 80 63	2302 50 00
2008 20 59	2008 50 99	2008 92 51	2008 99 47	2009 80 69	2306 90 19
2008 20 71	2008 60 11	2008 92 59	2008 99 49	2009 80 71	2308 00 90
2008 20 79	2008 60 31	2008 92 72	2008 99 53	2009 80 73	2309 10 51
2008 20 91	2008 60 39	2008 92 74	2008 99 55	2009 80 79	2309 10 90
2008 20 99	2008 60 51	2008 92 76	2008 99 61	2009 80 88	2309 90 10
2008 30 11	2008 60 59	2008 92 78	2008 99 62	2009 80 89	2309 90 31
2008 30 31	2008 60 61	2008 92 92	2008 99 68	2009 80 95	2309 90 41
2008 30 39	2008 60 69	2008 92 93	2008 99 72	2009 80 96	2309 90 51
2008 30 51	2008 60 71	2008 92 94	2008 99 78	2009 80 97	2309 90 91
2008 30 55	2008 60 79	2008 92 96	2008 99 99	2009 80 99	2309 90 95
2008 30 59	2008 60 91	2008 92 97	2009 31 11	2009 90 19	2309 90 99
2008 30 71	2008 60 99	2008 92 98	2009 39 31	2009 90 29	2309 90 99
2008 30 75	2008 80 11	2008 99 11	2009 41 10	2009 90 39	

ANNEX A(b)

Imports into the Community of the following products originating in Hungary shall be subject to the concessions set out below

(MFN = most favoured nation duty)

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0102 90 05	Live bovine animals of a live weight not exceeding 80 kg	10	178 000 heads	0	⁽³⁾
0102 90 21 0102 90 29 0102 90 41 0102 90 49	Live bovine animals of a live weight exceeding 80 kg but not exceeding 300 kg	10	153 000 heads	0	⁽³⁾
ex 0102 90	Heifers and cows not for slaughter of the following mountain breeds: grey, brown, yellow, spotted Simmental and Pinzgau	6 % <i>ad valorem</i>	7 000 heads	0	⁽⁴⁾
0104 10 30 0104 10 80 0104 20 10 0104 20 90	Live sheep or goats	free	unlimited		⁽⁵⁾
0204	Meat of sheep or goats, fresh, chilled or frozen				
0210 99 21	Edible meat of sheep and goats, with bone in				
0210 99 29	Edible meat of sheep and goats, boneless				
0210 99 60	Edible meat offal of sheep and goats				
0201 0202	Meat of bovine animals, fresh, chilled or frozen	free	13 655	1 365	⁽⁵⁾
ex 0203	Meat of domestic swine, fresh, chilled or frozen	free	48 000	4 000	⁽⁵⁾ ⁽⁶⁾
0206 10 95	Edible offal of bovine animals, fresh or chilled, thick skirt and thin skirt	free	1 000	100	⁽⁵⁾
0206 29 91	Edible offal of bovine animals, frozen, other, thick skirt and thin skirt				
0210 20 10 0210 20 90	Meat of bovine animals, salted, in brine, dried or smoked				
0210 99 51	Thick skirt and thin skirt of bovine animals				
0210 99 59	Other offal of bovine animals				
0210 99 90	Edible flours and meals of meat or meat offal				
0207 11 30 0207 11 90 0207 12	Chicken carcasses	free	118 900	9 900	⁽⁵⁾
0207 13 50 0207 14 50	Breasts of chicken				

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0207 13 60 0207 14 60	Legs of chicken				
0207 13 10 0207 14 10	Boneless cuts of chicken				
0207 26 10 0207 27 10	Boneless cuts of turkey				
0207 26 50 0207 27 50	Breasts of turkey				
0207 32 11 0207 32 15 0207 32 19 0207 33 11 0207 33 19	Ducks				
ex 0207 35 15 ex 0207 36 15	Cuts of ducks, boneless				
ex 0207 35 53 ex 0207 36 53	Breasts and cuts thereof of ducks, with bone-in				
ex 0207 35 63 ex 0207 36 63	Legs and cuts thereof of ducks, with bone-in				
ex 0207 35 79 ex 0207 36 79	Breasts and cuts thereof of ducks, the ribs of which have been partially or completely removed				
0207 32 51 0207 32 59 0207 33 51 0207 33 59 0207 35 11 0207 35 23 0207 35 51 0207 35 61 0207 36 11 0207 36 23 0207 36 51 0207 36 61	Geese				
ex 0207 35 31 ex 0207 36 31	Whole wings of geese, with or without tips				
ex 0207 35 41 ex 0207 36 41	Backs, necks, backs with necks attached, rumps and wing tips of geese				
ex 0207 35 71 ex 0207 36 71	Paletots of geese				
ex 0207 35 79 ex 0207 36 79	Breasts and cuts thereof of geese, the ribs of which have been partially or completely removed				
0210 11 11 0210 12 11 0210 19 40 0210 19 51	Meat of domestic swine, salted or in brine	free	1 200	100	⁽⁵⁾
ex 0210 99 39 ex 0210 99 80	Poultry, dried or smoked	free	2 400	200	⁽⁵⁾
0401	Milk and cream, not concentrated, nor containing added sugar or other sweetening matter	free	1 300	130	⁽⁵⁾
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter				

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0403 10 11 to 0403 10 39	Yoghurt, not flavoured nor containing added fruit, nuts or cocoa	free	50	10	(³)
0403 90 11 to 0403 90 69	Buttermilk, curled milk and cream, kephir and other fermented or acidified milk and cream, not flavoured nor containing added fruit, nuts or cocoa.				
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents; whether or not containing added sugar or other sweetening matter, nor elsewhere specified or included	free	50	10	(³)
0405 10	Butter	free	300	30	(⁵)
0405 20 90	Dairy spreads of a fat content, by weight of > 75 % but < 80 %				
0405 90	Other fats and oils derived from milk				
0406	Cheese and curd	free	4 200	350	(⁵)
0407 00 30	Eggs of poultry in shell, not for hatching	free	3 155	315	
0408 91 80	Eggs, dried, for human consumption	free	755	80	
ex 0702 00 00	Tomatoes, from 1 to 31 October	free	300	30	(⁸)
0703 10 11 0703 10 19	Onions	free	70 200	5 850	
0704 90 10	White cabbages and red cabbages	free	2 555	255	
ex 0707 00 05	Cucumbers, from 1 November to 15 May	free	2 600	260	(⁸)
ex 0707 00 05	Cucumbers, from 16 May to 31 October	free	unlimited		(⁸)
0709 10 00	Globe artichokes, fresh or chilled	free	unlimited		(⁸)
0709 90 70	Courgettes, fresh or chilled	free	unlimited		(⁸)
0710 21 00	Peas, frozen	free	19 655	1 965	
0710 80 95	Other vegetables, frozen	free	25 355	2 535	
0710 90 00	Mixtures of vegetables, frozen	free	5 800	580	
0805 10 10	Sanguines and semi-sanguines, fresh	free	unlimited		(⁸)
0805 10 30	Navels, Navelines, Navelates, Salustianas, Vernas, Valencia lates, Maltese, Shamoutis, Ovalis, Trovita, and Hamlins, fresh				
0805 10 50	Other, fresh				
ex 0806 10 10	Table grapes from 15 July to 31 October	free	900	90	(⁸)
0807 11 00 0807 19 00	Melons, including watermelons	free	11 855	990	

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0808 10 10	Cider apples, in bulk from 16 September to 15 December	free	37 800	3 780	
0808 10 20 0808 10 50 0808 10 90	Apples, other than cider apples	free	9 155	915	⁽⁸⁾ ⁽⁹⁾
0808 10 20	Apples, other than cider apples	100 %	—	—	⁽⁹⁾
0808 10 50		100 %	—	—	⁽⁹⁾
0808 10 90		100 %	—	—	⁽⁹⁾
0808 20 10 0808 20 50	Pears	free	2 100	210	⁽⁸⁾
0809 10 00	Apricots, fresh	free	unlimited		⁽⁸⁾
0809 20	Cherries	free	unlimited		⁽⁸⁾ ⁽¹⁰⁾
0809 40 05	Plums: — for processing in immediate containers of a net weight capacity exceeding 250 kg ⁽¹²⁾ — other	free free	unlimited unlimited		⁽⁸⁾ ⁽¹¹⁾
0810 20 10	Raspberries	41	unlimited		⁽⁷⁾
0810 30 10	Blackcurrants	41			⁽⁷⁾
0810 30 30	Redcurrants	41			⁽⁷⁾
0810 30 90	Other berries	24			
0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter	free	unlimited		⁽⁷⁾
ex 0811 20 19	Frozen raspberries, containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight				
0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter				
0811 20 39	Frozen blackcurrants, containing no added sugar or other sweetening matter				
0811 20 51	Frozen redcurrants, containing no added sugar or other sweetening matter				
ex 0811 20 19	Frozen blackberries, mulberries, loganberries, black-, white- or redcurrants and gooseberries	free	unlimited		
0812 90 30 0812 90 99	Papaws (papayas) and other fruit and nuts, provisionally preserved	free	1 200	100	
0901 21 00	Roasted coffee (excluding decaffeinated)	50	unlimited		
0901 22 00	Roasted decaffeinated coffee				
0904 20 10	Sweet peppers, neither crushed or ground	free	1 200	100	

CN code	Description (1)	Applicable duty (% of MFN) (2)	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
1001	Wheat and meslin	free	600 000	60 000	(5)
1101	Wheat or meslin flour				
1103 11 10	Durum wheat groats and meal				
1103 11 90	Common wheat and spelt groats and meal				
1103 20 60	Wheat pellets				
1002 00 00	Rye	free	2 000	200	(5)
1102 10 00	Rye flour				
1103 19 10	Rye groats and meal				
1103 20 10	Rye pellets				
1003	Barley	free	7 000	700	(5)
1102 90 10	Barley flour				
1103 19 30	Barley groats and meal				
1103 20 20	Barley pellets				
1004 00 00	Oats	free	1 000	100	(5)
1102 90 30	Oat flour				
1103 19 40	Groats and meal of oats				
1103 20 30	Pellets of oats				
1005 10 90	Other than hybrid maize seed	free	450 000	45 000	(5)
1005 90 00	Maize other than seed				
1102 20 10	Maize flour with fat content of $\leq 1,5$ % by weight				
1102 20 90	Maize flour with fat content of $> 1,5$ % by weight				
1103 13 10	Groats and meal of maize				
1103 13 90					
1103 20 40	Maize pellets				
1008	Buckwheat, millet, canary seed; other cereals	free	unlimited		(5)
1102 90 90	Cereals flour, other				
1103 19 90	Groats and meal of other cereals				
1103 20 90	Cereal pellets, other				
1109 00 00	Wheat gluten	free	455	45	
1501 00 19	Pig fat (including lard), other	free	2 880	290	
1512 11 10	Sunflower seed oil	free	9 000	750	
1512 11 91			3 455	290	
1512 19 10			1 500	125	

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
1517 10 90	Margarine containing ≤ 10 % milk fats (excluding liquids)	50	unlimited		
1517 90 99	Other edible mixtures or preparations				
1601 00 91 1601 00 99	Sausages, dry or other	free	10 500	875	⁽⁵⁾
1602 39 29 1602 39 40 1602 39 80	Other prepared or preserved meat of other poultry	free	unlimited		⁽⁵⁾
1602 41 10 1602 42 10 1602 49 11 1602 49 13 1602 49 15 1602 49 19 1602 49 30 1602 49 50	Other preparations, preserved meat of domestic swine	free	1 080	90	⁽⁵⁾
1602 50 10 1602 50 31 1602 50 39 1602 50 80	Other prepared or preserved meat or meat offal of bovine animals	free	2 400	240	⁽⁵⁾
ex 1605 90 30	Edible snails, of the genus <i>Helix pomatia</i>	free	unlimited		
1702 30 1702 40	Glucose and glucose syrup	free	1 055	90	
1703	Molasses resulting from the extraction or refining of sugar	free	unlimited		⁽⁵⁾
2001 90 20 2005 90 10	Fruits of the genus <i>Capsicum</i> , other than sweet peppers and pimento, preserved	50	unlimited		
2002 90 31 2002 90 39	Preserved tomatoes	free	9 000	900	
2002 90 91 2002 90 99	Preserved tomatoes	free	2 520	250	
2005 40 00	Peas <i>Pisum sativum</i> prepared or preserved otherwise than by vinegar or acetic acid (excluding frozen)	free	1 355	115	
2005 90 75	Sauerkraut	free	4 355	435	
ex 2007 99 31	Sour cherry jam	free	5 255	525	⁽⁸⁾
2007 99 33	Strawberry jam				
2007 99 35	Raspberry jam				
ex 2007 99 39	Fruit preparations, with sugar content > 30 % by weight, fruit within headings 0801, 0803, 0804 (except figs and pineapples), 0807 20 00, 0810 20 90, 0810 30 90, 0810 40 10, 0810 40 50, 0810 40 90, 0810 90	free	unlimited		⁽⁸⁾
ex 2007 99 98	Other, fruit within headings 0801, 0803, 0804 (except figs and pineapples), 0807 20 00, 0810 20 90, 0810 30 90, 0810 40 10, 0810 40 50, 0810 40 90, 0810 90				

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
2009 80 11 2009 80 32 2009 80 33 2009 80 35 2009 80 61 2009 80 83 2009 80 84 2009 80 86	Fruit juice	free	2 555	255	⁽⁸⁾
2303 10 11	Residues of starch from maize	free	1 355	135	
ex 2309 10	Dog or cat food, put up for retail sale excluding CN codes 2309 10 11, 2309 10 31, 2309 10 51, 2309 10 90	free	17 800	1 780	
2401 10 2401 20	Tobacco	20	5 255	440	

⁽¹⁾ Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording of the description of the products is to be considered as having no more than indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN code. Where ex CN codes are indicated, the preferential scheme is to be determined by application to the CN code and corresponding description taken together.

⁽²⁾ In cases where a MFN minimum duty exists, the applicable minimum duty is equal to the MFN minimum duty multiplied by the percentage indicated in this column.

⁽³⁾ The quota for this product is opened for Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and the Slovak Republic. In case imports into the Community of live bovine animals may exceed 500 000 heads for any given year, the Community may take the management measures to protect its market, not withstanding any other rights given under the Agreement.

⁽⁴⁾ The quota for this product is opened for Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and the Slovak Republic.

⁽⁵⁾ This concession is only applicable to products not benefiting from any kind of export subsidies.

⁽⁶⁾ Excluding tenderloin presented alone.

⁽⁷⁾ Subject to minimum import price arrangements contained in the Appendix to the present Annex.

⁽⁸⁾ The reduction applies only to the *ad valorem* part of the duty.

⁽⁹⁾ For these CN-codes, the following concessions — applicable for apples imported within as well as outside the tariff quota — should be applied:

- five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced for the period 1 January to 14 February, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature,
- three additional stages (14 %, 16 % and 18 %) are herewith introduced for the period 15 February to 31 March, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature,
- two additional stages (16 % and 18 %) are herewith introduced for the period 1 April to 15 July, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature,
- five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced for the period 16 July to 31 December, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.

⁽¹⁰⁾ In addition to the reduction of the *ad valorem* part of the duty, five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.

⁽¹¹⁾ In addition to the reduction of the *ad valorem* part of the duty, three additional stages (10 %, 12 % and 14 %) are herewith introduced which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.

⁽¹²⁾ Entry under this subheading is subject to conditions laid down in the relevant Community provisions (see Articles 291 to 300 of Commission Regulation (EEC) No 2454/93 (OJ L 253, 11.10.1993, p. 71) and subsequent amendments).

Annex to Annex A(b)

Minimum import price arrangement for certain soft fruit for processing

The importation into the Community of the products listed in this Appendix originating in Hungary will be subject to the conditions described in this Appendix.

1. Minimum import prices are fixed for the following products:

CN code	Description	Minimum import price (EUR/t net)
ex 0810 20 10	Raspberries, fresh	631
ex 0810 30 10	Blackcurrants, fresh	385
ex 0810 30 30	Redcurrants, fresh	233
ex 0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter: whole fruit	750
ex 0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter: other	576
ex 0811 20 19	Frozen raspberries, containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight: whole fruit	995
ex 0811 20 19	Frozen raspberries, containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight: other	796
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter: whole fruit	995
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter: other	796
ex 0811 20 39	Frozen blackcurrants, containing no added sugar or other sweetening matter: without stalk	628
ex 0811 20 39	Frozen blackcurrants, containing no added sugar or other sweetening matter: other	448
ex 0811 20 51	Frozen redcurrants, containing no added sugar or other sweetening matter: without stalk	390
ex 0811 20 51	Frozen redcurrants, containing no added sugar or other sweetening matter: other	295

- The minimum import prices, as set out in point 1, will be respected on a consignment by consignment basis. In the case of a customs declaration value being lower than the minimum import price, a countervailing duty will be charged equal to the difference between the minimum import price and the customs declaration value.
- If the import prices of a given product covered by this Appendix show a trend suggesting that the prices could go below the level of the minimum import prices in the immediate future, the European Commission will inform the Hungarian authorities in order to enable them to correct the situation.
- At the request of either the Community or Hungary, the Association Committee shall examine the functioning of the system or the revision of the level of the minimum import prices. If appropriate, the Association Committee shall take the necessary decisions.
- To encourage and promote the development of trade and for the mutual benefit of all parties concerned, a consultation meeting may be organised three months before the beginning of each marketing year in the European Community. This consultation meeting will take place between the European Commission and the interested European producers' organisations for the products concerned, of the one part, and the authorities', producers' and exporters' organisations of all the associated exporting countries, of the other part.

During this consultation meeting, the market situation for soft fruit including, in particular, forecasts for production, stock situation, price evolution and possible market development, as well as possibilities to adapt supply to demand, will be discussed.

ANNEX B(a)

Custom duties on imports applicable in Hungary to products originating in the Community and listed below shall be abolished — Hungarian tariff codes 2002 ⁽¹⁾

0101 10 10	0206 80 10	0510 00 00	0709 90 10	0713 90 90	0806 20 11
0101 10 90	0206 90 10	0511 10 00	0709 90 20	0714 20 10	0806 20 12
0101 90 11	0207 13 91	0511 91 10	0709 90 31	0714 20 90	0806 20 18
0101 90 30	0207 14 91	0511 91 90	0709 90 40	0714 90 90	0806 20 91
0102 10 10	0207 26 91	0511 99 10	0709 90 50	0801 11 00	0806 20 92
0102 10 30	0207 27 91	0511 99 90	0709 90 70	0801 19 00	0806 20 98
0102 10 90	0207 34 10	0601	0709 90 90	0801 21 00	0807 20 00
0102 90 90	0207 34 90	0602	0710 10 00	0801 22 00	0808 20 90
0103 91 90	0207 35 91	0603	0710 22 00	0801 31 00	0809 10 00
0103 92 90	0207 36 81	0604 10 10	0710 29 00	0801 32 00	0809 20 05
0105 11 11	0207 36 85	0604 10 90	0710 30 00	0802 11 10	0809 20 95
0105 11 19	0207 36 89	0604 91 21	0710 80 10	0802 11 90	0809 40 05
0105 11 91	0208 10 11	0604 91 29	0710 80 51	0802 12 10	0809 40 90
0105 11 99	0208 10 19	0604 91 41	0710 80 59	0802 12 90	0810 10 00
0105 12 00	0208 10 90	0604 91 49	0710 80 61	0802 21 00	0810 40 10
0105 19 20	0208 20 00	0604 91 90	0710 80 69	0802 22 00	0810 40 30
0105 19 90	0208 30 00	0604 99 10	0710 80 70	0802 31 00	0810 40 50
0106 11 00	0208 40 10	0604 99 90	0710 80 80	0802 32 00	0810 40 90
0106 12 00	0208 40 90	0701 10 00	0710 80 85	0802 40 00	0810 50 00
0106 19 10	0208 50 00	0703 10 90	0711 20 10	0802 50 00	0810 60 00
0106 19 90	0208 90 10	0703 20 00	0711 20 90	0802 90 20	0810 90 30
0106 20 00	0208 90 20	0703 90 00	0711 30 00	0802 90 50	0810 90 40
0106 31 00	0208 90 40	0704 20 00	0711 40 00	0802 90 60	0810 90 95
0106 32 00	0208 90 55	0704 90 90	0711 90 50	0802 90 85	0811 10 19
0106 39 10	0208 90 60	0705 19 00	0711 90 90	0803 00 11	0811 10 90
0106 39 90	0208 90 95	0705 21 00	0712 20 00	0803 00 19	0811 20 19
0106 90 00	0210 91 00	0705 29 00	0712 31 00	0803 00 90	0811 20 31
0203 11 90	0210 92 00	0706 90 10	0712 32 00	0804 10 00	0811 20 39
0203 12 90	0210 93 00	0706 90 30	0712 33 00	0804 20 10	0811 20 51
0203 19 90	0210 99 10	0706 90 90	0712 39 00	0804 20 90	0811 20 59
0203 21 90	0210 99 71	0707 00 90	0712 90 05	0804 30 00	0811 20 90
0203 22 90	0210 99 79	0708 10 00	0712 90 11	0804 40 00	0811 90 31
0203 29 90	0407 00 11	0708 10 20	0712 90 30	0804 50 00	0811 90 39
0205 00 11	0407 00 19	0708 90 00	0712 90 50	0805 10 10	0811 90 50
0205 00 19	0409 00 00	0709 10 00	0712 90 90	0805 10 30	0811 90 70
0205 00 90	0502 10 00	0709 20 00	0713 10 10	0805 10 50	0811 90 75
0206 10 10	0502 90 00	0709 30 00	0713 10 90	0805 10 80	0811 90 80
0206 22 00	0503 00 00	0709 40 00	0713 20 00	0805 20 10	0811 90 85
0206 29 10	0504 00 00	0709 51 00	0713 31 00	0805 20 30	0811 90 95
0206 30 20	0505 10 10	0709 52 00	0713 32 00	0805 20 50	0812 10 00
0206 30 30	0506 10 00	0709 59 10	0713 33 10	0805 20 70	0812 90 10
0206 30 80	0506 90 00	0709 59 30	0713 33 90	0805 20 90	0812 90 20
0206 41 20	0507 10 00	0709 59 90	0713 39 00	0805 40 00	0812 90 30
0206 41 80	0507 90 00	0709 60 10	0713 40 00	0805 50 10	0812 90 40
0206 49 20	0508 00 00	0709 60 95	0713 50 00	0805 50 90	0812 90 50
0206 49 80	0509 00 10	0709 70 00	0713 90 10	0805 90 00	

⁽¹⁾ Common Decree No 22/2002 of the Minister of Foreign Affairs and the Minister of Finance (Magyar Közlöny No 148 Vol. 2, 30.11.2002. p. 58).

0812 90 60	1006 10 10	1504 30 10	1515 50 91	2001 90 70	2008 30 79
0812 90 70	1106 10 00	1504 30 90	1515 50 99	2001 90 75	2008 30 90
0812 90 99	1106 30 10	1508 10 10	1515 90 15	2001 90 85	2008 50 11
0813 10 00	1106 30 90	1508 10 90	1515 90 21	2001 90 91	2008 50 31
0813 20 00	1107 10	1508 90 10	1515 90 29	2001 90 93	2008 50 39
0813 30 00	1107 20 00	1508 90 90	1515 90 31	2001 90 96	2008 50 59
0813 40 10	1108 20 00	1509 10 10	1515 90 39	2003 20 00	2008 50 61
0813 40 30	1202 10 90	1509 10 90	1515 90 40	2003 90 00	2008 50 69
0813 40 50	1202 20 00	1509 90 00	1515 90 51	2004 90 30	2008 50 71
0813 40 60	1207 99 98	1510 00 10	1515 90 59	2004 90 50	2008 50 79
0813 40 70	1208 10 00	1510 00 90	1515 90 60	2004 90 91	2008 50 92
0813 40 95	1208 90 00	1511 10 10	1515 90 91	2005 51 00	2008 50 94
0813 50 12	1210 10 00	1511 10 90	1515 90 99	2005 59 00	2008 50 99
0813 50 15	1210 20 10	1511 90 11	1516 10 10	2005 60 00	2008 60 11
0813 50 19	1210 20 90	1511 90 19	1516 10 90	2005 70 10	2008 60 31
0813 50 31	1211 30 00	1511 90 91	1516 20 91	2005 70 90	2008 60 39
0813 50 39	1211 40 00	1511 90 99	1516 20 95	2005 90 50	2008 60 51
0813 50 91	1211 90 30	1512 11 99	1516 20 96	2005 90 60	2008 60 59
0813 50 99	1211 90 70	1512 19 99	1516 20 98	2005 90 70	2008 60 61
0814 00 00	1211 90 75	1512 21 10	1518 00 31	2005 90 80	2008 60 69
0901 11 00	1211 90 98	1512 21 90	1518 00 95	2006 00 10	2008 60 71
0901 12 00	1212 10 10	1512 29 10	1522 00 91	2006 00 91	2008 60 79
0901 90 10	1212 10 91	1512 29 90	1522 00 99	2006 00 99	2008 60 91
0901 90 90	1212 10 99	1513 11 10	1601 00 10	2007 99 10	2008 60 99
0902 20 00	1212 30 00	1513 11 91	1602 20 11	2007 99 91	2008 80 11
0902 40 00	1212 99 20	1513 11 99	1602 20 19	2008 11 92	2008 80 31
0903 00 00	1212 99 80	1513 19 11	1602 31 11	2008 11 94	2008 80 39
0904 11 00	1213 00 00	1513 19 19	1602 31 19	2008 11 96	2008 80 50
0904 12 00	1214 10 00	1513 19 30	1602 31 30	2008 11 98	2008 80 70
0905 00 00	1214 90 10	1513 19 91	1602 31 90	2008 19 11	2008 80 91
0906 10 00	1214 90 91	1513 19 99	1602 32 19	2008 19 13	2008 80 99
0906 20 00	1214 90 99	1513 21 11	1602 39 29	2008 19 19	2008 80 99
0907 00 00	1301 10 00	1513 21 19	1602 39 40	2008 19 51	2008 92 12
0908 10 00	1301 20 00	1513 21 30	1602 39 80	2008 19 59	2008 92 14
0908 20 00	1301 90 10	1513 21 90	1602 41 90	2008 19 93	2008 92 32
0908 30 00	1301 90 90	1513 29 11	1602 42 90	2008 19 95	2008 92 34
0909 10 00	1302 11 00	1513 29 19	1602 49 90	2008 19 99	2008 92 36
0909 20 00	1302 12 00	1513 29 30	1602 90 10	2008 20 19	2008 92 38
0909 30 00	1302 13 00	1513 29 50	1602 90 31	2008 20 39	2008 92 51
0909 40 00	1302 14 00	1513 29 91	1602 90 41	2008 20 51	2008 92 59
0909 50 00	1302 19 05	1513 29 99	1602 90 69	2008 20 59	2008 92 72
0910 10 00	1302 19 98	1515 11 00	1602 90 98	2008 20 71	2008 92 74
0910 20 10	1302 32 90	1515 19 10	1603 00 10	2008 20 79	2008 92 76
0910 20 90	1302 39 00	1515 19 90	1603 00 80	2008 20 91	2008 92 78
0910 30 00	1501 00 90	1515 21 10	1703 10 00	2008 20 99	2008 92 92
0910 40 11	1502 00 90	1515 21 90	1703 90 00	2008 30 11	2008 92 93
0910 40 13	1503 00 11	1515 29 10	1801 00 00	2008 30 31	2008 92 94
0910 40 19	1503 00 19	1515 29 90	1802 00 00	2008 30 39	2008 92 96
0910 40 90	1503 00 30	1515 30 10	2001 10 00	2008 30 51	2008 92 97
0910 50 00	1503 00 90	1515 30 90	2001 90 10	2008 30 55	2008 92 98
0910 91 10	1504 10 99	1515 40 00	2001 90 50	2008 30 59	2008 99 11
0910 99 10	1504 20 10	1515 50 11	2001 90 60	2008 30 71	2008 99 19
0910 99 91	1504 20 90	1515 50 19	2001 90 65	2008 30 75	2008 99 23

2008 99 25	2008 99 61	2009 79 30	2009 80 97	2301 20 00	2309 90 41
2008 99 26	2008 99 62	2009 79 93	2009 80 99	2302 50 00	2309 90 51
2008 99 28	2008 99 68	2009 79 99	2009 90 19	2306 20 00	2309 90 91
2008 99 36	2008 99 72	2009 80 19	2009 90 29	2306 30 00	2309 90 95
2008 99 37	2008 99 78	2009 80 36	2009 90 39	2306 41 00	2309 90 99
2008 99 38	2008 99 99	2009 80 38	2009 90 41	2306 49 00	2905 45 00
2008 99 40	2009 31 11	2009 80 50	2009 90 49	2308 00 11	5301 10 00
2008 99 41	2009 39 31	2009 80 63	2009 90 51	2308 00 40	5301 21 00
2008 99 43	2009 41 10	2009 80 69	2009 90 59	2308 00 90	5301 29 00
2008 99 45	2009 49 30	2009 80 71	2009 90 73	2309 10 11	5301 30 10
2008 99 46	2009 50 10	2009 80 73	2009 90 79	2309 10 31	5301 30 90
2008 99 47	2009 50 90	2009 80 79	2009 90 95	2309 10 51	5302 10 00
2008 99 49	2009 71 10	2009 80 88	2009 90 96	2309 10 90	
2008 99 51	2009 71 91	2009 80 89	2009 90 97	2309 90 10	
2008 99 53	2009 71 99	2009 80 95	2009 90 98	2309 90 20	
2008 99 55	2009 79 19	2009 80 96	2301 10 00	2309 90 31	

ANNEX B(b)

Imports into Hungary of the following products originating in the Community shall be subject to the concessions set out below

Hungarian tariff code	Description ⁽¹⁾	Applicable <i>ad valorem</i> duty	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
ex 0102 90	Live bovine animals (excluding CN 0102 90 90)	free	100	10	
0103 10 00	Pure-bred breeding live swine	free	684	60	
0103 91 10 0103 92 11 0103 92 19	Domestic live swine excluding pure-breed breeding animals	free	1 480	150	
0104 10 10 0104 10 30 0104 10 80 0104 20 10 0104 20 90	Live sheep or goats	free	unlimited		(²)
0204	Meat of sheep or goats, fresh, chilled or frozen				
0206 80 99 0206 90 99	Edible offal of sheep and goats, fresh, chilled or frozen				
0210 99 21	Edible meat of sheep and goats, with bone in				
0210 99 29	Edible meat of sheep and goats, boneless				
0210 99 60	Edible meat offal of sheep and goats				
0105 92 00 0105 93 00 0105 99 10 0105 99 30	Live poultry for breeding purposes	free	84	7	
0201 0202	Meat of bovine animals, fresh, chilled or frozen	free	12 500	1 250	(²)
ex 0203	Meat of swine, fresh chilled or frozen (excluding CN codes 0203 11 90, 0203 12 90, 0203 19 90, 0203 21 90, 0203 22 90, 0203 29 90)	free	25 200	2 100	(²)
0206 10 91 0206 10 95 0206 10 99	Edible offal of bovine animals, fresh or chilled, thick skirt and thin skirt	free	1 000	100	(²)
0206 21 00	Edible offal of bovine animals, frozen, tongues				
0206 29 91 0206 29 99	Edible offal of bovine animals, frozen, other, thick skirt and thin skirt, other				
0210 20 10 0210 20 90	Meat of bovine animals, salted, in brine, dried or smoked				
0210 99 51	Thick skirt and thin skirt of bovine animals				
0210 99 59	Other offal of bovine animals				
0210 99 90	Edible flours and meals of meat or meat offal				

Hungarian tariff code	Description (1)	Applicable <i>ad valorem</i> duty	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0206 30	Fresh or chilled edible offal of domestic swine	free	13 400	1 340	(2)
0206 41 0206 49	Frozen edible offal of domestic swine				
0206 80	Fresh or chilled edible offal, horses, asses, mules and hinnies				
0206 90	Frozen edible offal, horses, asses, mules and hinnies				
ex 0207	Meat and edible offal of poultry (excluding CN codes 0207 13 91, 0207 14 91, 0207 26 91, 0207 27 91, 0207 34 10, 0207 34 90, 0207 35 91, 0207 36 81, 0207 36 85, 0207 36 89)	free	22 000	2 200	(2)
0209	Pig and poultry fat	free	480	50	
0210 11 to 0210 19	Meat of swine, salted in brine, dried or smoked	free	1 200	100	(2)
0401	Milk and cream, not concentrated, nor containing added sugar or other sweetening matter	free	2 250	225	(2)
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter				
04031011 to 04031039	Yoghurt, not flavoured nor containing added fruit, nuts or cocoa	free	150	15	(2)
04039011 to 04039069	Buttermilk, curdled milk and cream, kephir and other fermented or acidified milk and cream, not flavoured nor containing added fruit, nuts or cocoa				
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents; whether or not containing added sugar or other sweetening matter, nor elsewhere specified or included	free	500	50	(2)
ex 0405	Butter and other fats and oils derived from milk (excluding CN codes 0405 20 10 and 0405 20 30)	free	800	80	(2)
0406	Cheese and curd	free	4 200	350	(2)
0701 90	Fresh or chilled potatoes (excluding seed)	free	7 700	770	
0702 20	Tomatoes fresh or chilled	free	6 000	600	
0703 10	Onions fresh or chilled	free	7 000	700	
0704 10	Fresh or chilled cauliflowers and headed broccoli	free	3 500	350	
0704 90 10	White and red cabbages, fresh or chilled				
0705 11	Cabbage lettuce	free	500	50	
0706 10	Fresh or chilled carrots and turnips	free	3 800	380	
ex 0707 00 05	Cucumbers and gherkins from 1 October to 31 March, fresh or chilled	free	2 000	200	

Hungarian tariff code	Description (1)	Applicable <i>ad valorem</i> duty	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0710 21	Peas, frozen	free	950	95	
0710 80 95	Other vegetables, frozen				
0710 90	Mixtures of vegetables, frozen				
0711 90 10 0711 90 50 0711 90 80 0711 90 90	Vegetables and mixtures of vegetables provisionally preserved, but unsuitable in that state for immediate consumption	free	190	20	
0712 90 19	Dried vegetables, whole, cut, sliced, broken or in powder but not further prepared	free	220	25	
ex 0806 10	Fresh grapes from 15 November to 30 May	free	2 740	275	
ex 0807 11 00 0807 19 00	Melons, from 1 December to 15 June	free	6 500	650	
0808 10 20 0808 10 50 0808 10 90	Fresh apples	free	8 400	840	
ex 0808 20	Fresh pears and quinces (excluding CN code 0808 20 90)	free	220	20	
0809 30	Fresh peaches, including nectarines	free	700	70	
ex 0810 20 ex 0810 30	Raspberries, blackberries, mulberries and loganberries from 1 December to 15 May	free	324	32	
0901 21 00	Roasted coffee (excluding decaffeinated)	21	unlimited		
0901 22 00	Roasted decaffeinated coffee				
1001 1101 1103 11 10 1103 11 90 1103 20 60	Wheat and meslin Wheat or meslin flour Durum wheat groats and meal Common wheat and spelt groats and meal Wheat pellets	free	70 000	7 000	(2)
1002 00 00 1102 10 00 1103 19 10 1103 20 10	Rye Rye flour Rye groats and meal Rye pellets	free	6 000	600	(2)
1003 1102 90 10 1103 19 30 1103 20 20	Barley Barley flour Barley groats and meal Barley pellets	free	144 000	14 400	(2)

Hungarian tariff code	Description (1)	Applicable <i>ad valorem</i> duty	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
1004 00 00	Oats	free	3 000	300	(2)
1102 90 30	Oat flour				
1103 19 40	Groats and meal of oats				
1103 20 30	Pellets of oats				
1005	Maize	free	102 000	10 200	(2)
1102 20 10	Maize flour with fat content of $\leq 1,5\%$ by weight				
1102 20 90	Maize flour with fat content of $\leq 1,5\%$ by weight				
1103 13 10	Groats and meal of maize				
1103 13 90					
1103 20 40	Maize pellets				
1006	Rice	free	48 000	4 000	
1008	Buckwheat, millet, canary seed; other cereals	free	unlimited		(2)
1102 90 90	Cereals flour, other				
1103 19 90	Groats and meal of other cereals				
1103 20 90	Cereal pellets, other				
1104 12 90	Flaked oats	free	168	15	
1105 20 00	Flakes, granules and pellets of potatoes	free	180	15	
1501 00 19	Pig fat (including lard), other	free	300	30	
1507	Soya bean oil	free	6 000	500	
1512 11 91	Sunflower seed oil	free	12 000	1 000	
1512 19 91					
1514	Rape, colza or mustard oil	free	4 800	400	
1517 10 90	Margarine containing $\leq 10\%$ milk fats (excluding liquids)	20	unlimited		
1517 90 99	Other edible mixtures or preparations				
1601 00 91	Sausages and similar products, other than of liver	free	1 200	100	(2)
1601 00 99					
1602 20 90	Other preparations of liver	free	1 130	110	(2)
1602 31	Prepared or preserved meat of poultry	free	1 200	100	(2)
1602 32 11					
1602 32 30					
1602 39 90					
1602 39 21					
1602 41 10	Prepared or preserved meat of swine	free	1 200	100	(2)
1602 42 10					
1602 49 11					
1602 49 13					
1602 49 15					
1602 49 19					
1602 49 30					
1602 49 50					

Hungarian tariff code	Description (1)	Applicable <i>ad valorem</i> duty	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
1602 90 72 1602 90 74 1602 90 76 1602 90 78	Preparations, other	free	unlimited		(2)
ex 1605 90 30	Edible snails, of the genus <i>Helix pomatia</i>	free	unlimited		
1702 11 00 1702 19 00	Lactose and lactose syrup	free	1 050	110	
1703	Molasses resulting from the extraction or refining of sugar	free	unlimited		(2)
2002 10 10 2002 10 90	Preserved tomatoes	free	600	60	
2002 90 11 2002 90 31 2002 90 91	Preserved tomatoes	free	2 400	240	
2002 90 19 2002 90 39 2002 90 99	Preserved tomatoes	free	500	50	
ex 2003 10	Mushrooms, (excluding homogenised products)	free	240	25	
2004 10 10 2004 10 99 2004 90 98	Other vegetables, prepared or preserved otherwise than by vinegar or acetic acid, frozen	free	7 400	740	
2005 10 00 2005 20 20 2005 20 80 2005 40 00	Other prepared vegetables, not frozen	free	1 320	130	
2007 91 10 2007 91 30 2007 91 90	Jams of citrus fruit	free	160	20	
ex 2007 99	Other (only diabetic, excluding CN code 2007 99 91)	free	168		
ex 2007 99	Other (not diabetic, excluding CN code 2007 99 10 and 2007 99 91)	30			
2008 40 2008 70	Pears, prepared or preserved Peaches, prepared or preserved	free	1 630	160	
2009 11	Orange juice, frozen	free	96	10	
2009 19	Orange juice, other than frozen	free	2 280	230	
ex 2009 31	Juice of any other single citrus fruit of a Brix value not exceeding 20 (excluding CN code 2009 31 11)	5,5	804	67	
ex 2009 39	Other of a Brix value exceeding 67 (excluding CN code 2009 39 31)	5,5			

Hungarian tariff code	Description ⁽¹⁾	Applicable <i>ad valorem</i> duty	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
ex 2009 31	Juice of any other single citrus fruit of a Brix value not exceeding 20 (excluding CN code 2009 31 11)	10	2 712	226	
ex 2009 39	Other of a Brix value exceeding 67 (excluding CN code 2009 39 31)	10			
ex 2009 41	Pineapple juice of a Brix value not exceeding 20 (excluding CN code 2009 41 10)	11	18	2	
ex 2009 49	Other of a Brix value exceeding 67 (excluding CN code 2009 49 30)	11			
ex 2009 41	Pineapple juice of a Brix value not exceeding 20 (excluding CN code 2009 41 10)	20	14	1	
ex 2009 49	Other of a Brix value exceeding 67 (excluding CN code 2009 49 30)	20			
2009 61 2009 69	Grape juice	free	1 330	130	
2009 79 11 2009 80 11 2009 80 32 2009 80 33 2009 80 35	Fruit juice	free	420	40	
2009 80 11 2009 80 32 2009 80 33 2009 80 35 2009 80 61 2009 80 83 2009 80 84 2009 80 86 2009 90 11 2009 90 21 2009 90 31 2009 90 71	Mixtures of juice	19	144	15	
2302 30	Bran, sharps and other residues of wheat	free	1 590	160	
2307	Wine lees, argul	free	744	65	
ex 2309 90	Preparations used for animal feeding (excluding CN codes 2309 90 10, 2309 90 20, 2309 90 31, 2309 90 41, 2309 90 51, 2309 90 91, 2309 90 95, 2309 90 99)	free	8 070	800	
ex 2401 10 ex 2401 20	Tobacco excluding CN codes 2401 10 60 and 2401 20 60	33	8 950	895	
2401 10 60 2401 20 60	Sun-cured Oriental type tobacco	free	1 510	150	

⁽¹⁾ The wording of the description of the products is to be considered as having no more than indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the code. Where ex codes are indicated, the preferential scheme is to be determined by application to the code and corresponding description taken together.

⁽²⁾ This concession is only applicable to products non-benefiting from any kind of export subsidies.

**COUNCIL DECISION
of 8 April 2003**

on the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, to take account of the outcome of negotiations between the Parties on new mutual agricultural concessions

(2003/286/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, in conjunction with Article 300(2) subparagraph 1, first sentence thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part ⁽¹⁾, provides for certain reciprocal trade concessions for certain agricultural products.
- (2) Article 21(5) of the Europe Agreement provides that the Community and Bulgaria shall examine product by product and on an orderly and reciprocal basis the possibilities of granting each other further concessions.
- (3) The first improvements to the preferential arrangements of the Europe Agreement with Bulgaria were provided for in the Protocol adjusting trade aspects of the Europe Agreement to take account of the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the outcome of the Uruguay Round negotiations on agriculture, including improvements to the existing preferential arrangements, approved by Council Decision 1999/278/EC ⁽²⁾.
- (4) Improvements to the preferential arrangements were also provided for as a result of negotiations to liberalise agricultural trade concluded in 2000. On the Community side, these were implemented from 1 July 2000 by Council Regulation (EC) No 2290/2000 of 9 October 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Bulgaria ⁽³⁾. This second adjustment of the preferential arrangements has not yet been incorporated in the Europe Agreement in the form of an Additional Protocol.

- (5) Negotiations for further improvements to the preferential arrangements of the Europe Agreement with Bulgaria were concluded on 18 October 2002.
- (6) The new Additional Protocol to the Europe Agreement adjusting the trade aspects of the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part (hereinafter referred to as the Protocol) should be approved with a view to consolidating all concessions in agricultural trade between the two sides, including the results of the negotiations concluded in 2000 and 2002.
- (7) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽⁴⁾ has codified the management rules for tariff quotas designed to be used following the chronological order of dates of customs declarations. Certain tariff quotas under this Decision should therefore be administered in accordance with those rules.
- (8) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁵⁾.
- (9) As a result of the aforementioned negotiations, Regulation (EC) No 2290/2000 has effectively lost its substance and should therefore be repealed,

HAS DECIDED AS FOLLOWS:

Article 1

The attached Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions, is hereby approved on behalf of the Community.

⁽¹⁾ OJ L 358, 31.12.1994, p. 3.

⁽²⁾ OJ L 112, 29.4.1999, p. 1.

⁽³⁾ OJ L 262, 17.10.2000, p. 1.

⁽⁴⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 444/2002 (OJ L 68, 12.3.2002, p. 11).

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23.

Article 2

The President of the Council is hereby authorised to designate the person empowered to sign the Protocol on behalf of the Community and make the notification of approval provided for in Article 3 of the Protocol.

Article 3

1. Upon this Decision taking effect, the arrangements provided for in the Annexes of the Protocol attached to this Decision shall replace those referred to in Annexes X and XI as referred to in Article 21(2) and 21(3) of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part.

2. The Commission shall adopt detailed rules for the application of the Protocol in accordance with the procedure referred to in Article 5(2).

Article 4

1. The order numbers as attributed to the tariff quotas in the Annex to this Decision may be changed by the Commission in accordance with the procedure referred to in Article 5(2). Tariff quotas with an order number above 09.5100 shall be administered by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

2. Quantities of goods subject to tariff quotas and released for free circulation as from 1 July 2002 under the concessions provided for in Annex A(b) to Regulation (EC) No 2290/2000 shall be fully counted against the quantities provided for in the

fourth column in Annex A(b) to the attached Protocol, except for quantities for which import licences were issued before 1 July 2002.

Article 5

1. The Commission shall be assisted by the Management Committee for Cereals instituted by Article 23 of Council Regulation (EEC) No 1766/92⁽¹⁾ or, where appropriate, by the committee instituted by the relevant provisions of the other Regulations on the common organisation of agricultural markets.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

Article 6

Regulation (EC) No 2290/2000 shall be repealed as from the entry into force of the Protocol.

Done at Luxembourg, 8 April 2003.

For the Council
The President
G. DRYS

⁽¹⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1666/2000 (OJ L 193, 29.7.2000, p. 1).

ANNEX

Order numbers for EU tariff quotas for products originating in Bulgaria

(as referred to in Article 4)

Quota order No	CN code	Description
09.4598	0102 90 05	Live bovine animals of a live weight not exceeding 80 kg
09.4537	0102 90 21 0102 90 29 0102 90 41 0102 90 49	Live bovine animals of a live weight exceeding 80 kg but not exceeding 300 kg
09.4563	ex 0102 90	Heifers and cows not for slaughter of the following mountain breeds: grey, brown, yellow, spotted Simmental and Pinzgau
09.4651	0201 0202	Meat of bovines, fresh, chilled or frozen
09.4671	ex 0203 0210 11 0210 12 0210 19 1601 00 1602 41 1602 42 1602 49	Meat of domestic swine, fresh, chilled or frozen Meat of swine, salted, in brine, dried or smoked Sausages and similar products Prepared or preserved meat, meat offal or blood of swine
09.5854	ex 0207	Meat and edible offal, of the poultry of heading 0105, excluding 0207 27 91, 0207 35 91, 0207 36 89
09.4675	0403 10 11 0403 10 13 0403 10 19 0403 10 31 0403 10 33 0403 10 39	Yoghurt
09.4660	0406	Cheese and curd
09.5891	0407 00 30	Eggs of poultry, in shell, not for hatching
09.6223	0701 90 50 0701 90 90	Potatoes
09.6225	0702 00 00	Tomatoes
09.6231	0707	Cucumbers and gherkins, fresh or chilled
09.6233	0709 60 10	Sweet peppers
09.5892	0709 90 70	Courgettes
09.6161	0710 21 00 0710 22 00 0710 29 00 0710 80 51 0710 80 69 0710 80 95	Frozen vegetables
09.4725	0711 51 00 2003 10 20 2003 10 30	Mushrooms of the genus <i>Agaricus</i>

Quota order No	CN code	Description
09.6245	0806 10	Fresh grapes
09.6247	0808 10	Apples
09.6249	0808 20 10 0808 20 50	Pears
09.6253	0809 10 00	Apricots
09.5731	0809 20 0811 90 75 0811 90 80	Cherries
09.6255	0809 30	Peaches
09.6162	0809 40 05	Plums
09.6261	0810 10 00	Strawberries, fresh
09.5573	0812 90 10	Apricots, provisionally preserved
09.4676	1001 1109 00 00	Wheat and meslin Wheat gluten
09.5893	1002 00 00 1102 10 00 1103 19 10 1103 20 10	Rye Rye flour Rye groats and meal Rye pellets
09.5894	1003 1102 90 10 1103 19 30 1103 20 20	Barley Barley flour Barley groats and meal Barley pellets
09.5895	1004 1102 90 30 1103 19 40 1103 20 30	Oats Oat flour Oats groats and meal Oats pellets
09.4677	1005 10 90 1005 90 00	Maize
09.6275	1512 11 10 1512 11 91 1512 19 10 1512 19 91	Sunflower-seed or safflower oil and fractions thereof
09.6277	1602 32 1602 39	Prepared or preserved meat of poultry
09.5896	1603 00 10	Extracts and juices, in packings of 1 kg or less
09.6279	2001 10 00	Cucumbers, preserved
09.5897	2001 90 70	Sweet peppers, preserved
09.6281	2002	Preserved or prepared tomatoes

Quota order No	CN code	Description
09.5898	2005 10 00 2005 20 20 2005 20 80 2005 40 00 2005 51 00 2005 59 00 2005 60 00 2005 90 30 2005 90 50 2005 90 60 2005 90 70 2005 90 75 2005 90 80	Other vegetables, prepared or preserved
09.6285	2007 99 33	Strawberry jam
09.5899	2008 40 11 2008 40 21 2008 40 29 2008 40 39 2008 40 51 2008 40 59 2008 40 71 2008 40 79 2008 40 91 2008 40 99	Pears, prepared or preserved
09.6287	2008 50	Apricots, prepared or preserved
09.6291	2008 70	Peaches, prepared or preserved
09.6293	2008 80	Strawberries, prepared or preserved
09.5900	2309 10 51 2309 10 90	Dog or cat food
09.5732	2309 90 31 2309 90 41	Preparations of a kind used in animal feeding
09.6299	2401 10 10 2401 10 60 2401 10 70 2401 20 10 2401 20 60 2401 20 70	Tobacco

PROTOCOL**adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, to take account of the outcome of negotiations between the Parties on new mutual agricultural concessions**

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

THE REPUBLIC OF BULGARIA,

of the other part,

Whereas:

- (1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part (hereinafter referred to as the Europe Agreement) was signed in Brussels on 8 March 1993 and entered into force on 1 February 1995 ⁽¹⁾.
- (2) Article 21(5) of the Europe Agreement provides that the Community and Bulgaria are to examine in the Association Council, product by product and on an orderly and reciprocal basis, the possibility of granting each other additional agricultural concessions. On this basis negotiations have been undertaken and were concluded between the parties.
- (3) For the first time, improvements to the preferential agricultural regime of the Europe Agreement were provided for in the Protocol adjusting trade aspects of the Europe Agreement ⁽²⁾ to take account of the last enlargement of the Community and the outcome of the GATT Uruguay Round.
- (4) Two further rounds of negotiations for improved agricultural trade concessions were concluded on 18 May 2000 and 18 October 2002.
- (5) From the one side, the Council decided, by virtue of Regulation (EC) No 2290/2000 ⁽³⁾, to apply on a provisional basis, as from 1 July 2000, the European Community concessions resulting from the 2000 round of negotiations and from the other side the Government of Bulgaria took legislative provisions to apply, as from the same date of 1 July 2000, the relevant Bulgarian concessions (Decree of the Council of Ministers No 127, 11.7.2000; Decree of the Council of Ministers No 161, 20.6.2001; Integrated Customs Tariff of the Republic of Bulgaria, introduced by Decree of the Council of Ministers No 289, 20.12.2001 ⁽⁴⁾).
- (6) The abovementioned concessions will be supplemented and replaced on the date of entry into force of this Protocol by the concessions provided for herein,

HAVE AGREED AS FOLLOWS:

Article 1

The arrangements for import into the Community applicable to certain agricultural products originating in Bulgaria as set out in Annex A(a) and A(b) and the arrangements for import into Bulgaria applicable to certain agricultural products originating in the Community as set out in Annex B(a) and B(b) to this Protocol shall replace those set out in Annexes X and XI as referred to in Article 21(2) and 21(3) to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part.

⁽¹⁾ OJ L 358, 31.12.1994, p. 3.

⁽²⁾ OJ L 112, 29.4.1999, p. 1.

⁽³⁾ OJ L 262, 17.10.2000, p. 1.

⁽⁴⁾ State Gazette (SG) No 57/2000, No 59/2001 and No 1/2002 respectively.

Article 2

The Annexes to this Protocol shall form an integral part thereof. This Protocol shall form an integral part of the Europe Agreement.

Article 3

This Protocol shall be approved by the Community and Bulgaria in accordance with their own procedures. The Contracting Parties shall take the necessary measures to implement this Protocol.

The Contracting Parties shall notify each other of the accomplishment of the corresponding procedures according to the first paragraph hereof.

Article 4

Subject to completion of the procedures provided for in Article 3, this Protocol shall enter into force on 1 January 2003. Should these procedures not be completed in time, it shall enter into force on the first day of the first month following the Contracting Parties' notification of the accomplishment of the procedures.

Article 5

This Protocol shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Bulgarian languages, each of these texts being equally authentic.

Hecho en Bruselas, el catorce de abril de dos mil tres.

Udfærdiget i Bruxelles den fjortende april to tusind og tre.

Geschehen zu Brüssel am vierzehnten April zweitausendunddrei.

Έγινε στις Βρυξέλλες, στις δέκα τέσσερις Απριλίου δύο χιλιάδες τρία.

Done at Brussels on the fourteenth day of April in the year two thousand and three.

Fait à Bruxelles, le quatorze avril deux mille trois.

Fatto a Bruxelles, addì quattordici aprile duemilatre.

Gedaan te Brussel, de veertiende april tweeduizenddrie.

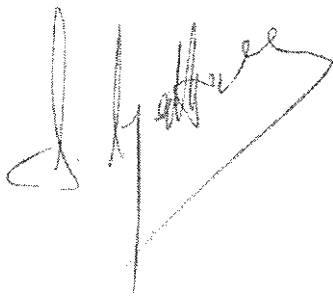
Feito em Bruxelas, em catorze de Abril de dois mil e três.

Tehty Brysselissä neljäntenätoista päivänä huhtikuuta vuonna kaksituhattakolme.

Som skedde i Bryssel den fjortonde april tjugohundratre.

Изготвено в Брюксел на четирнадесети април две хиляди и трета година.

Por la Comunidad Europea
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Voor de Europese Gemeenschap
Pela Comunidade Europeia
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar

A handwritten signature in black ink, appearing to be a stylized name with a long horizontal stroke extending to the right.

За Република България

A handwritten signature in black ink, appearing to be a stylized name with a long horizontal stroke extending to the right.

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ANNEX A(a)

Customs duties on imports applicable in the Community to products originating in Bulgaria and listed below shall be abolished — CN codes ⁽¹⁾

0101 10 90	0709 30 00	0810 50 00	1209 10 00	1602 20 19	2008 30 71
0101 90 19	0709 40 00	0810 60 00	1209 21 00	1602 31	2008 30 75
0101 90 30	0709 51 00	0810 90 95	1209 23 80	1602 90 72 ⁽²⁾	2008 30 79
0101 90 90	0709 52 00	0811 20 19	1209 29 50	1602 90 74 ⁽²⁾	2008 30 90
0104 ⁽²⁾	0709 59	0811 20 39	1209 29 60	1602 90 76 ⁽²⁾	2008 60
0106 19 10	0709 60 99	0811 20 51	1209 29 80	1602 90 78 ⁽²⁾	2008 92 12
0106 39 10	0709 90 10	0811 20 59	1209 30 00	2001 90 20	2008 92 14
0204 ⁽²⁾	0709 90 20	0811 20 90	1209 91	2001 90 50	2008 92 32
0205	0709 90 31	0811 90 19	1209 99 91	2001 90 65	2008 92 34
0206 80 91	0709 90 40	0811 90 39	1209 99 99	2001 90 75	2008 92 36
0206 90 91	0709 90 50	0811 90 50	1210	2001 90 85	2008 92 38
0207 27 91	0709 90 90	0811 90 70	1211 90 30	2001 90 93	2008 92 51
0207 35 91	0710 30 00	0811 90 85	1212 10 10	2001 90 96	2008 92 59
0207 36 89	0710 80 10	0811 90 95	1212 10 99	2003 20 00	2008 92 72
0208	0710 80 59	0812 10 00	1214 90 10	2003 90 00	2008 92 74
0210 92 00	0710 80 80	0812 90 20	1302 19 05	2005 70	2008 92 76
0210 93 00	0710 80 85	0812 90 40	1502 00 90	2005 90 10	2008 92 78
0210 99 10	0711 20 10	0812 90 50	1503 00 19	2006 00 99	2008 92 92
0210 99 21 ⁽²⁾	0711 30 00	0812 90 60	1503 00 90	2007 91 90	2008 92 93
0210 99 29 ⁽²⁾	0711 40 00	0812 90 99	1504 10 10	2007 99 10	2008 92 94
0210 99 60 ⁽²⁾	0711 59 00	0813 10 00	1504 10 99	2007 99 31	2008 92 96
0210 99 79	0711 90 10	0813 20 00	1504 20 10	2007 99 39	2008 92 97
0407 00 11 ⁽²⁾	0711 90 50	0813 30 00	1504 30 10	2007 99 58	2008 92 98
0407 00 19 ⁽²⁾	0711 90 80	0813 40 10	1507	2007 99 93	2008 99 11
0408 11 80 ⁽²⁾	0711 90 90	0813 40 30	1508 10 90	2007 99 98	2008 99 19
0408 19 81 ⁽²⁾	0712 20 00	0813 40 95	1508 90	2008 11 92	2008 99 23
0408 19 89 ⁽²⁾	0712 31 00	0813 50 15	1509	2008 11 94	2008 99 25
0408 91 80 ⁽²⁾	0712 32 00	0813 50 19	1510	2008 11 96	2008 99 26
0408 99 80 ⁽²⁾	0712 33 00	0813 50 39	1511 10 90	2008 11 98	2008 99 28
0409 00 00	0712 39 00	0813 50 91	1511 90	2008 19	2008 99 36
0410 00 00	0712 90 05	0813 50 99	1512 11 99	2008 20 19	2008 99 37
06	0712 90 30	0814 00 00	1512 19 99	2008 20 39	2008 99 38
0701 10 00	0712 90 50	09	1512 21	2008 20 51	2008 99 40
0701 90 10	0712 90 90	1006 10 10	1512 29	2008 20 59	2008 99 43
0703	0713	1007 00 10	1513	2008 20 71	2008 99 45
0704 20 00	0714 20	1008 ⁽²⁾	1514	2008 20 79	2008 99 46
0704 90 90	0714 90 90	1102 90 90 ⁽²⁾	1515	2008 20 91	2008 99 47
0705 19 00	0802	1103 19 90 ⁽²⁾	1516 20 95	2008 20 99	2008 99 49
0705 21 00	0804 20	1103 20 90 ⁽²⁾	1516 20 96	2008 30 11	2008 99 53
0705 29 00	0806 20	1106 10 00	1516 20 98	2008 30 31	2008 99 55
0706	0807	1106 30	1518 00 31	2008 30 39	2008 99 61
0708 10 00	0808 20 90	1107 ⁽²⁾	1518 00 39	2008 30 51	2008 99 62
0709 10 00	0809 40 90	1108 20 00	1522 00 91	2008 30 55	2008 99 68
0709 20 00	0810 40	1208 10 00	1602 20 11	2008 30 59	2008 99 72

⁽¹⁾ As defined in Commission Regulation (EC) No 1832/2002 of 1 August 2002 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 290, 28.10.2002, p. 1).

⁽²⁾ Customs duties on imports of these products shall be abolished provided they do not benefit from export refunds.

2008 99 78	2009 31	2009 49 30	2009 80 36	2009 80 95	2009 90 59
2008 99 99	2009 39 19	2009 49 93	2009 80 38	2009 80 96	2009 90 73
2009 11 19	2009 39 31	2009 49 99	2009 80 50	2009 80 97	2009 90 79
2009 12 00	2009 39 39	2009 50	2009 80 63	2009 80 99	2009 90 95
2009 19 19	2009 39 55	2009 71	2009 80 69	2009 90 19	2009 90 96
2009 19 98	2009 39 59	2009 79 19	2009 80 71	2009 90 29	2009 90 97
2009 21 00	2009 39 95	2009 79 30	2009 80 73	2009 90 39	2302 50 00
2009 29 19	2009 39 99	2009 79 93	2009 80 79	2009 90 41	2306 90 19
2009 29 91	2009 41	2009 79 99	2009 80 88	2009 90 49	2308 00 90
2009 29 99	2009 49 19	2009 80 19	2009 80 89	2009 90 51	2309 90 10

ANNEX A(b)

Imports into the Community of the following products originating in Bulgaria shall be subject to the concessions set out below

(MFN= most favoured nation duty)

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Quantity from 1.7.2002 to 30.6.2003 (tonnes)	Annual quantity from 1.7.2003 to 30.6.2004 (tonnes)	Yearly increase as from 1.7.2004 (tonnes)	Specific provisions
0102 90 05	Live bovine animals of a live weight not exceeding 80 kg	10	178 000 heads	178 000 heads	0	⁽³⁾ ⁽¹⁴⁾
0102 90 21 0102 90 29 0102 90 41 0102 90 49	Live bovine animals of a live weight exceeding 80 kg but not exceeding 300 kg	10	153 000 heads	153 000 heads	0	⁽³⁾ ⁽¹⁴⁾
ex 0102 90	Heifers and cows not for slaughter of the following mountain breeds: grey, brown, yellow, spotted Simmental and Pinzgau	6 % <i>ad valorem</i>	7 000 heads	7 000 heads	0	⁽⁴⁾ ⁽¹⁴⁾
0201 0202	Meat of bovines, fresh, chilled or frozen	free	250	250	0	⁽¹⁴⁾
ex 0203	Meat of domestic swine, fresh, chilled or frozen	free	2 500	3 000	500	⁽⁵⁾ ⁽¹³⁾ ⁽¹⁴⁾
0210 11 0210 12 0210 19	Meat of swine, salted, in brine, dried or smoked					
1601 00	Sausages and similar products					
1602 41 1602 42 1602 49	Prepared or preserved meat, meat offal or blood of swine					
ex 0207	Meat and edible offal, of the poultry of heading 0105, excluding 0207 27 91, 0207 35 91, 0207 36 89	free	6 050	6 050	0	⁽¹⁴⁾
0403 10 11 0403 10 13 0403 10 19 0403 10 31 0403 10 33 0403 10 39	Yoghurt	free	250	500	0	
0406	Cheese and curd	free	6 100	6 400	300	⁽¹³⁾ ⁽¹⁴⁾
0407 00 30	Eggs of poultry, in shell, not for hatching	free	150	300	0	⁽¹³⁾
0701 90 50 0701 90 90	Potatoes	free	4 100	5 000	0	⁽¹⁴⁾

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Quantity from 1.7.2002 to 30.6.2003 (tonnes)	Annual quantity from 1.7.2003 to 30.6.2004 (tonnes)	Yearly increase as from 1.7.2004 (tonnes)	Specific provisions
0702 00 00	Tomatoes	free	6 450	6 550	100	(7) (8) (13) (14)
0702 00 00	Tomatoes	100	—	—	—	(8)
0707	Cucumbers and gherkins, fresh or chilled	free	8 375	8 375	850	(7) (8) (14)
0707	Cucumbers and gherkins, fresh or chilled	100	—	—	—	(8)
0709 60 10	Sweet peppers	free	2 000	2 000	0	(14)
0709 90 70	Courgettes	free	50	100	0	(7) (8)
0709 90 70	Courgettes	100	—	—	—	(8)
0710 21 00 0710 22 00 0710 29 00 0710 80 51 0710 80 69 0710 80 95	Frozen vegetables	free	4 000	4 000	0	(14)
0711 51 00 2003 10 20 2003 10 30	Mushrooms of the genus <i>Agaricus</i>	free	2 125	2 500	250	(14)
0806 10 10	Fresh grapes	free	1 200	1 800	0	(7) (9) (14)
0806 10 90						(14)
0806 10 10	Fresh grapes	100	—	—	—	(9)
0808 10 10	Apples	free	1 925	2 325	400	(13) (14)
0808 10 20						(7) (10) (13) (14)
0808 10 50						
0808 10 90						
0808 10 20 0808 10 50 0808 10 90	Apples	100	—	—	—	(10)
0808 20 10	Pears	free	3 125	3 125	315	(14)
0808 20 50						(7) (11) (14)
0808 20 50	Pears	100	—	—	—	(11)
0809 10 00	Apricots	free	750	750	0	(7) (8) (14)
0809 10 00	Apricots	100	—	—	—	(8)
0809 20 0811 90 75 0811 90 80	Cherries	free	1 600	2 200	220	(7) (8)
0809 20	Cherries	100	—	—	—	(8)

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Quantity from 1.7.2002 to 30.6.2003 (tonnes)	Annual quantity from 1.7.2003 to 30.6.2004 (tonnes)	Yearly increase as from 1.7.2004 (tonnes)	Specific provisions
0809 30	Peaches	free	1 000	1 000	100	(7) (12) (14)
0809 30	Peaches	100	—	—	—	(12)
0809 40 05	Plums	free	9 375	9 375	0	(7) (9) (14)
0809 40 05	Plums	100	—	—	—	(9)
0810 10 00	Strawberries, fresh	free	2 090	2 090	200	(6) (14)
0810 20	Raspberries, blackberries, mulberries and loganberries	free	unlimited	unlimited		(6)
0810 30	Black-, white- or redcurrants and gooseberries	free	unlimited	unlimited		(6)
0811 10	Strawberries, frozen	free	unlimited	unlimited		(6)
0811 20 31	Raspberries, frozen, not containing added sugar	free	unlimited	unlimited		(6)
0812 90 10	Apricots, provisionally preserved	free	1 250	1 250	125	(14)
1001	Wheat and meslin	free	126 400	250 000	25 000	(13) (14)
1109 00 00	Wheat gluten					(13)
1002 00 00	Rye	free	2 000	4 000	400	(13)
1102 10 00	Rye flour					(13)
1103 19 10	Rye groats and meal					(13)
1103 20 10	Rye pellets					(13)
1003	Barley	free	25 000	50 000	5 000	(13)
1102 90 10	Barley flour					(13)
1103 19 30	Barley groats and meal					(13)
1103 20 20	Barley pellets					(13)
1004 00 00	Oats	free	1 250	2 500	250	(13)
1102 90 30	Oat flour					(13)
1103 19 40	Oats groats and meal					(13)
1103 20 30	Oats pellets					(13)
1005 10 90 1005 90 00	Maize	free	40 000	80 000	8 000	(13)

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Quantity from 1.7.2002 to 30.6.2003 (tonnes)	Annual quantity from 1.7.2003 to 30.6.2004 (tonnes)	Yearly increase as from 1.7.2004 (tonnes)	Specific provisions
1512 11 10 1512 11 91 1512 19 10 1512 19 91	Sunflower-seed or safflower oil and fractions thereof	free	1 750	3 000	0	⁽¹⁴⁾
1602 32 1602 39	Prepared or preserved meat of poultry	free	1 250	1 500	150	⁽¹³⁾ ⁽¹⁴⁾
1603 00 10	Extracts and juices, in packings of 1 kg or less	free	50	100	10	
2001 10 00	Cucumbers, preserved	free	3 125	3 125	315	⁽¹⁴⁾
2001 90 70	Sweet peppers, preserved	free	250	500	50	
2002	Preserved or prepared tomatoes	free	16 900	17 100	200	⁽¹³⁾ ⁽¹⁴⁾
2005 10 00 2005 20 20 2005 20 80 2005 40 00 2005 51 00 2005 59 00 2005 60 00 2005 90 30 2005 90 50 2005 90 60 2005 90 70 2005 90 75 2005 90 80	Other vegetables, prepared or preserved	free	1 500	3 000	300	
2007 99 33	Strawberry jam	free	250	250	25	⁽⁷⁾ ⁽¹⁴⁾
2008 40 11 2008 40 21 2008 40 29 2008 40 39 2008 40 51 2008 40 59 2008 40 71 2008 40 79 2008 40 91 2008 40 99	Pears, prepared or preserved	free	50	100	10	
2008 50	Apricots, prepared or preserved	free	500	500	50	⁽¹⁴⁾
2008 70	Peaches, prepared or preserved	free	750	750	75	⁽¹⁴⁾
2008 80	Strawberries, prepared or preserved	free	650	650	65	⁽¹⁴⁾
2309 10 51 2309 10 90	Dog or cat food	free	250	500	0	

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Quantity from 1.7.2002 to 30.6.2003 (tonnes)	Annual quantity from 1.7.2003 to 30.6.2004 (tonnes)	Yearly increase as from 1.7.2004 (tonnes)	Specific provisions
2309 90 31 2309 90 41	Preparations of a kind used in animal feeding	free	3 500	3 500	0	⁽¹⁴⁾
2401 10 10 2401 10 60 2401 10 70 2401 20 10 2401 20 60 2401 20 70	Tobacco	free	7 500	7 500	0	⁽¹⁴⁾

⁽¹⁾ Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording of the description of the products is to be considered as having no more than indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN code. Where ex CN codes are indicated, the preferential scheme is to be determined by application to the CN code and corresponding description taken together.

⁽²⁾ In cases where a MFN minimum duty exists, the applicable minimum duty is equal to the MFN minimum duty multiplied by the percentage indicated in this column.

⁽³⁾ The quota for this product is opened for Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and the Slovak Republic. Where it appears likely that total Community imports of live bovine animals may exceed 500 000 head in a given marketing year the Community may take the management measures needed to protect its market, not withstanding any other rights given under the Agreement.

⁽⁴⁾ The quota for this product is opened for Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and the Slovak Republic.

⁽⁵⁾ Excluding tenderloin presented alone.

⁽⁶⁾ Subject to minimum import price arrangements contained in the Annex to the present Annex.

⁽⁷⁾ The reduction applies only to the *ad valorem* part of the duty.

⁽⁸⁾ Entry price system: for all imports (within and outside the tariff quotas) of CN codes 0702 (tomatoes), 0707 00 05 (cucumbers), 0709 90 70 (courgettes), 0809 10 (apricots) and 0809 20 (cherries), five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.

⁽⁹⁾ Entry price system: for all imports (within and outside the tariff quotas) of CN codes 0806 10 10 (grapes) and 0809 40 05 (plums), three additional stages (10 %, 12 % and 14 %) are herewith introduced which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature. In addition imports from Bulgaria to the Community of plums destined for processing in immediate containers of a net capacity weight exceeding 250 kg (CN code ex 0809 40 05) will be exempted from the specific duty. Entry under this subheading is subject to conditions laid down in the relevant Community provisions — see Articles 291 to 300 of Commission Regulation (EEC) No 2454/93 (OJ L 253, 11.10.1993, p. 71) and subsequent amendments.

⁽¹⁰⁾ Entry price system: for all imports (within and outside the tariff quotas) of CN codes 0808 10 20, 0808 10 50, 0808 10 90 (apples), the following concessions should be applied:

— five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced for the period 1 January to 14 February, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature,

— three additional stages (14 %, 16 % and 18 %) are herewith introduced for the period 15 February to 31 March, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature,

— two additional stages (16 % and 18 %) are herewith introduced for the period 1 April to 15 July, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature,

— five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced for the period 16 July to 31 December, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.

⁽¹¹⁾ Entry price system: for all imports (within and outside the tariff quotas) of CN code 0808 20 50 (pears), the following concessions should be applied:

— five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced for the period 1 January to 31 March, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature,

— two additional stages (16 % and 18 %) are herewith introduced for the periods 1 to 30 April and 1 to 15 July, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature,

— five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced for the period 16 July to 31 December, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.

⁽¹²⁾ Entry price system: for all imports (within and outside the tariff quotas) of CN code 0809 30 (peaches and nectarines), the following concessions should be applied:

— three additional stages (10 %, 12 % and 14 %) are herewith introduced for the period 11 June to 31 July, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature,

— five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced for the periods 1 August to 30 September, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.

⁽¹³⁾ This concession is only applicable to products not benefiting from any kind of export subsidies.

⁽¹⁴⁾ Quantities of goods subject to this existing tariff quota and released for free circulation as from 1 July 2002 before the entry into force of this Protocol shall be fully counted against the quantity provided for in the fourth column.

Annex to Annex A(b)

Minimum import price arrangement for certain soft fruit for processing

1. Minimum import prices are fixed as follows for the following products for processing originating in Bulgaria:

CN code	Description	Minimum import price (EUR/100 kg net)
ex 0810 10 00	Strawberries, fresh, intended for processing	51,4
ex 0810 20 10	Raspberries, fresh, intended for processing	63,1
ex 0810 30 10	Blackcurrants, fresh, intended for processing	38,5
ex 0810 30 30	Redcurrants, fresh, intended for processing	23,3
ex 0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter: whole fruit	75,0
ex 0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter: other	57,6
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter: whole fruit	99,5
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter: other	79,6

2. The minimum import prices, as set out in Article 1, will be respected on a consignment by consignment basis. In the case of a customs declaration value being lower than the minimum import price, a countervailing duty will be charged equal to the difference between the minimum import price and the customs declaration value.
3. If the import prices of a given product covered by this Annex show a trend suggesting that the prices could go below the level of the minimum import prices in the immediate future, the European Commission will inform the Bulgarian authorities in order to enable them to correct the situation.
4. At the request of either the Community or Bulgaria, the Association Committee shall examine the functioning of the system or the revision of the level of the minimum import prices. If appropriate, the Association Committee shall take the necessary decisions.
5. To encourage and promote the development of trade and for the mutual benefit of all parties concerned, a consultation meeting will be organised three months before the beginning of each marketing year in the European Community. This consultation meeting will take place between the European Commission and the interested European producers' organisations for the products concerned, of the one part and the authorities', producers' and exporters' organisations of all the associated exporting countries, of the other part.

During this consultation meeting, the market situation for soft fruit including, in particular, forecasts for production, stock situation, price evolution and possible market development, as well as possibilities to adapt supply to demand, will be discussed.

ANNEX B(a)

Customs duties on imports applicable in Bulgaria to products originating in the Community and listed below shall be abolished — Bulgarian tariff codes ⁽¹⁾

0101 10 90	0206 30 301	0511 91	0712 90 05	0814 00 00	1302 39 00
0101 90 11	0206 30 801	0511 99	0712 90 11	0901	1401
0101 90 19	0206 41 201	0601	0712 90 30	0902	1402 00 00
0101 90 30	0206 41 801	0602	0712 90 50	0903 00 00	1403 00 00
0101 90 90	0206 49 201	0603	0712 90 90	0904	1404
0102 90 90	0206 49 801	0604	0713 10	0905 00 00	1501 00 11
0104 10 10 ⁽²⁾	0206 80 10	0701 10	0713 20 00	0908	1502
0104 10 30 ⁽²⁾	0206 80 91	0703 20 00	0713 31 00	0909	1503
0104 10 80 ⁽²⁾	0206 80 99 ⁽²⁾	0703 90 00	0713 32 00	0910	1507
0104 20 10 ⁽²⁾	0206 90 10	0704 20 00	0713 33	1005 10 11	1508
0104 20 90 ⁽²⁾	0206 90 91	0704 90 90	0713 39 00	1005 10 13	1509
0105 19 20	0206 90 99 ⁽²⁾	0705 19 00	0713 40 00	1005 10 15	1510
0105 19 90	0207 27 91	0705 21 00	0713 50 00	1005 10 19	1511
0106 11 00	0207 34	0705 29 00	0713 90	1006 10 10	1512 11 99
0106 12 00	0207 35 91	0706 90	0714 20	1007 00 10	1512 19 99
0106 19 10	0207 36 81	0708 10 00	0714 90 90	1008 ⁽²⁾	1512 21
0106 19 90	0207 36 85	0709 10 00	0801	1102 90 90 ⁽²⁾	1512 29
0106 20 00	0207 36 89	0709 20 00	0802	1103 19 90 ⁽²⁾	1513
0106 31 00	0208	0709 40 00	0803	1103 20 90 ⁽²⁾	1514
0106 32 00	0210 92 00	0709 51 00	0804	1106 10 00	1515 11 00
0106 39 10	0210 93 00	0709 52 00	0805	1106 30	1515 19 10
0106 39 90	0210 99 10	0709 59	0806 20	1107 ⁽²⁾	1515 19 90
0106 90 00	0210 99 21 ⁽²⁾	0709 60 91	0807	1108 20 00	1515 21 10
0204 10 00 ⁽²⁾	0210 99 29 ⁽²⁾	0709 60 95	0808 20 90	1201	1515 21 90
0204 21 00 ⁽²⁾	0210 99 60 ⁽²⁾	0709 60 99	0810 40	1202	1515 29 10
0204 22 ⁽²⁾	0210 99 71	0709 90 10	0810 50 00	1203 00 00	1515 29 90
0204 23 00 ⁽²⁾	0210 99 79	0709 90 20	0810 60 00	1204	1515 30 10
0204 30 00 ⁽²⁾	0407 00 11 ⁽²⁾	0709 90 31	0810 90	1205	1515 30 90
0204 41 00 ⁽²⁾	0407 00 19 ⁽²⁾	0709 90 40	0811 20 39	1206	1515 40 00
0204 42 10 ⁽²⁾	0407 00 90	0709 90 50	0811 20 51	1207	1515 50 11
0204 42 30 ⁽²⁾	0408 11 20 ⁽²⁾	0709 90 90	0811 90 31	1208	1515 50 19
0204 42 50 ⁽²⁾	0408 11 80 ⁽²⁾	0710 30 00	0811 90 39	1209	1515 50 91
0204 42 90 ⁽²⁾	0408 19 ⁽²⁾	0710 80 10	0811 90 70	1210	1515 50 99
0204 43 10 ⁽²⁾	0408 91 20 ⁽²⁾	0710 80 59	0811 90 85	1211	1515 90 21
0204 43 90 ⁽²⁾	0408 91 80 ⁽²⁾	0710 80 80	0811 90 95	1212 10	1515 90 29
0204 50 ⁽²⁾	0408 99 20 ⁽²⁾	0710 80 85	0812 10 00	1212 30 00	1515 90 31
0205	0408 99 80 ⁽²⁾	0711 20	0812 90 20	1212 99 80	1515 90 39
0206 10 10	0409 00 00	0711 30 00	0812 90 30	1213 00 00	1515 90 40
0206 10 91	0410 00 00	0711 59 00	0812 90 40	1214	1515 90 51
0206 10 99	0501 00 00	0711 90 10	0812 90 50	1301	1515 90 59
0206 22 00	0502	0711 90 50	0812 90 60	1302 11 00	1515 90 60
0206 29 10	0503 00 00	0711 90 80	0812 90 70	1302 19 05	1515 90 91
0206 29 99	0504 00 00	0711 90 90	0812 90 99	1302 19 98	1515 90 99
0206 30 20	0511 10 00	0712 20 00	0813	1302 32 90	1516 20 95

⁽¹⁾ As defined in the Customs Tariff of the Republic of Bulgaria, adopted by Council of Ministers Decree No 289 (State Gazette No 1/2002).⁽²⁾ Customs duties on imports of these products shall be abolished provided they do not benefit from export refunds and, in the case of cereals products (CN chapters 10 and 11), are accompanied by an export licence with an indication to that effect.

1516 20 96	2007 99 93	2008 60 99	2008 99 45	2009 39 59	2009 90 19
1516 20 98	2008 11 92	2008 92 12	2008 99 46	2009 39 95	2009 90 29
1518 00 31	2008 11 94	2008 92 14	2008 99 47	2009 39 99	2009 90 39
1518 00 39	2008 11 96	2008 92 32	2008 99 49	2009 41 10	2009 90 41
1522 00 91	2008 11 98	2008 92 34	2008 99 51	2009 41 91	2009 90 49
1522 00 99	2008 19	2008 92 36	2008 99 53	2009 41 99	2009 90 51
1602 31	2008 20 19	2008 92 38	2008 99 55	2009 49 19	2009 90 59
1602 90 72 ⁽¹⁾	2008 20 39	2008 92 51	2008 99 61	2009 49 30	2009 90 73
1602 90 74 ⁽¹⁾	2008 20 51	2008 92 59	2008 99 62	2009 49 93	2009 90 79
1602 90 76 ⁽¹⁾	2008 20 59	2008 92 72	2008 99 68	2009 49 99	2009 90 95
1602 90 78 ⁽¹⁾	2008 20 71	2008 92 74	2008 99 72	2009 50	2009 90 96
1603 00 80	2008 20 79	2008 92 76	2008 99 78	2009 71	2009 90 97
1801 00 00	2008 20 91	2008 92 78	2008 99 99	2009 79 19	2301
1802 00 00	2008 20 99	2008 92 92	2009 11 19	2009 79 30	2302 50 00 0
2001 90 10	2008 30 11	2008 92 93	2009 12 00	2009 79 93	2303 10 19 0
2001 90 20	2008 30 31	2008 92 94	2009 19 19	2009 79 99	2303 10 90 0
2001 90 50	2008 30 39	2008 92 96	2009 19 98	2009 80 19	2303 20
2001 90 65	2008 30 51	2008 92 97	2009 21 00	2009 80 36	2303 30 00 0
2001 90 75	2008 30 55	2008 92 98	2009 29 19	2009 80 38	2304 00 00 0
2001 90 85	2008 30 59	2008 99 11	2009 29 91	2009 80 50	2305 00 00 0
2001 90 91	2008 30 71	2008 99 19	2009 29 99	2009 80 63	2306
2001 90 93	2008 30 75	2008 99 23	2009 31 11	2009 80 69	2307 00 11 0
2001 90 96	2008 30 79	2008 99 25	2009 31 19	2009 80 71	2307 00 90 0
2003 20 00	2008 30 90	2008 99 26	2009 31 51	2009 80 73	2308 00 11 0
2003 90 00	2008 60 11	2008 99 28	2009 31 59	2009 80 79	2308 00 40
2005 70	2008 60 31	2008 99 36	2009 31 91	2009 80 88	2308 00 90
2005 90 10	2008 60 51	2008 99 37	2009 31 99	2009 80 89	2309 10 31 0
2006 00 10	2008 60 59	2008 99 38	2009 39 31	2009 80 95	2309 90 10
2006 00 91	2008 60 71	2008 99 40	2009 39 19	2009 80 96	
2006 00 99	2008 60 79	2008 99 41	2009 39 39	2009 80 97	
2007 91 90	2008 60 91	2008 99 43	2009 39 55	2009 80 99	

⁽¹⁾ Customs duties on imports of these products shall be abolished provided they do not benefit from export refunds and, in the case of cereals products (CN chapters 10 and 11), are accompanied by an export licence with an indication to that effect.

ANNEX B(b)

Imports into Bulgaria of the following products originating in the Community shall be subject to the concessions set out below

(MFN = most favoured nation duty)

Bulgarian tariff code	Description (1)	Applicable customs duty (2)		Quantity from 1.7.2002 to 30.6.2003 (tonnes)	Annual quantity from 1.7.2003 to 30.6.2004 (tonnes)	Yearly increase as from 1.7.2004 (tonnes)	Special provisions
		Column I % of MFN	Column II % <i>ad valorem</i>				
0105 11	Live poultry, weighing no more than 185 g: Fowls of the species <i>Gallus domesticus</i>		free	218	400	40	(4)
0105 99 10	Ducks						
0105 99 20	Geese						
0202 20 30 0	Forequarters with bone-in, frozen	15	8,5	8 149	8 149	0	(4)
0202 20 50 0	Hindquarters with bone-in, frozen						
ex 0203	Meat of domestic swine, fresh, chilled or frozen	—	free	8 000	8 500	500	(3) (4)
0210 11	Meat of swine, salted, in brine, dried or smoked						
0210 12							
0210 19							
1601 00	Sausages and similar products						
1602 41	Prepared or preserved meat, meat offal or blood of swine						
1602 42							
1602 49							
0207	Meat and edible offal of poultry		free	1 000	1 000	0	(4)
0402 10	Milk and cream, in powder, granules or other solid forms		10	2 977	3 000	0	(4)
0402 21							
0405 10	Butter and other fats and oils derived from milk		20	87	100	0	(4)
0405 90							
0406	Cheese and curd	—	free	2 700	3 000	300	(3) (4)
0407 00 30	Eggs of poultry, in shell, not for hatching		free	150	300	0	(3)
0702 00 00	Tomatoes, fresh	—	free	700	800	100	(3) (4)
0706 10 00 0	Carrots and turnips	—	free	255	255	25	(4)
0707	Cucumbers and gherkins	—	free	1 130	1 130	115	(4)
0709 30 00 0	Aubergines (egg-plant)	—	free	75	100	10	(4)
0709 90 39	Other vegetables						
0709 90 60							
0709 60 10	Sweet peppers	—	free	145	150	0	(4)
0709 90 70	Courgettes		free	50	100		

Bulgarian tariff code	Description (1)	Applicable customs duty (2)		Quantity from 1.7.2002 to 30.6.2003 (tonnes)	Annual quantity from 1.7.2003 to 30.6.2004 (tonnes)	Yearly increase as from 1.7.2004 (tonnes)	Special provisions
		Column I % of MFN	Column II % <i>ad valorem</i>				
0710 10 00 0710 22 00 0710 29 00 0710 80 51 0710 80 61 0710 80 69 0710 80 95 0710 90 00	Vegetables, frozen	—	free	260	300	30	(4)
0710 21 00 0	Peas (<i>Pisum sativum</i>), frozen	—	free	115	150	15	(4)
0806 10	Fresh grapes	—	free	1 450	1 800	0	(4)
0808 10	Apples	—	free	4 680	5 080	400	(3) (4)
0808 20 50 9	Pears, other than from 1 April to 30 June	—	free	350	500	50	(4)
0809 10 00 0	Apricots	—	free	320	500	0	(4)
0809 20 0811 90 75 0811 90 80	Cherries	—	free	100	200	20	
0809 30	Peaches, including nectarines	—	free	2 025	2 030	0	(4)
0811 20	Raspberries, blackberries, mulberries, loganberries, black-, white- or red-currant and gooseberries	—	free	60	100	0	(4)
1001 1109 00 00	Wheat and meslin Wheat gluten	—	free	27 500	55 000	5 500	(3)
1002 00 00 1102 10 00 1103 19 10 1103 20 10	Rye Rye flour Rye groats and meal Rye pellets	—	free	500	1 000	100	(3)
1003 1102 90 10 1103 19 30 1103 20 20	Barley Barley flour Barley groats and meal Barley pellets	—	free	7 550	15 000	1 500	(3) (4)
1004 1102 90 30 1103 19 40 1103 20 30	Oats Oat flour Oats groats and meal Oats pellets	—	free	700	1 200	120	(3) (4)
1005 10 90 1005 90	Maize	—	free	14 000	28 000	2 800	(3)
1006 30	Rice, semi-milled or wholly milled	15	12,75	2 880	2 880	0	(4)
1103 19 50 1103 20 50	Meal and pellets of rice	—	25	13 671	13 671	0	(4)

Bulgarian tariff code	Description (1)	Applicable customs duty (2)		Quantity from 1.7.2002 to 30.6.2003 (tonnes)	Annual quantity from 1.7.2003 to 30.6.2004 (tonnes)	Yearly increase as from 1.7.2004 (tonnes)	Special provisions
		Column I % of MFN	Column II % ad valorem				
1108 13 00	Potato starch	—	free	263	263	26	(4)
1108 14 00	Manioc (cassava) starch						
1108 19	Other starches						
1512 11 10 1512 11 91 1512 19 10 1512 19 91	Sunflower-seed or safflower oil and fractions thereof	—	free	1 500	3 000	0	
ex 1515 90 15	Oiticica oils, myrtle wax and Japan wax; their fractions	—	free	unlimited	unlimited		
1517 10	Margarine, excluding liquid margarine	30	10,5	1 316	1 316	0	(4)
1602 10 00 0	Homogenised preparations of preserved meat	—	free	75	100	10	(4)
1602 20	Homogenised preparations of liver of any animal						
1602 32 1602 39	Other prepared or preserved meat, meat offal or blood of bovine animals	—	free	1 250	1 500	0	(3) (4)
1602 50	Other prepared or preserved meat, meat offal or blood of bovine animals	—	free	100	100	10	(4)
1603 00 10	Extracts and juices, in packings of 1 kg or less	—	free	50	100	10	
1701 99 00 0	Sugar, other than raw sugar and not containing added flavouring or colouring matter	15	34	21 888	21 888	0	(4)
1703	Molasses	—	free	10 000	20 000	2 000	(3)
2002	Prepared or preserved tomatoes	—	free	2 400	2 600	200	(3) (4)
2004 10 10 2004 10 99	Potatoes, prepared or preserved otherwise than by vinegar or acetic acid, frozen	—	free	535	535	55	(4)
2005 10 00 2005 20 20 2005 20 80 2005 40 00 2005 51 00 2005 59 00 2005 60 00 2005 90 30 2005 90 50 2005 90 60 2005 90 70 2005 90 75 2005 90 80	Other vegetables, prepared or preserved	—	free	200	400	40	
2007 10	Homogenised preparations	—	free	155	155	15	(4)

Bulgarian tariff code	Description (1)	Applicable customs duty (2)		Quantity from 1.7.2002 to 30.6.2003 (tonnes)	Annual quantity from 1.7.2003 to 30.6.2004 (tonnes)	Yearly increase as from 1.7.2004 (tonnes)	Special provisions
		Column I % of MFN	Column II % <i>ad valorem</i>				
2008 40 11 2008 40 21 2008 40 29 2008 40 39 2008 40 51 2008 40 59 2008 40 71 2008 40 79 2008 40 91 2008 40 99	Pears, prepared or preserved	—	free	50	100	10	
2009 11 11 2009 11 91 2009 11 99 2009 19 11 2009 19 91	Orange juice, frozen Other orange juice	—	free	520	520	0	(4)
2009 29 11 2009 39 11 2009 39 51 2009 39 91 2009 49 11 2009 49 91 2009 90 11 2009 90 21 2009 90 31 2009 90 71 2009 90 92 2009 90 94 2009 90 98	Grape juice, including grape must Grapefruit juice Juice of other single fruit Pineapple juice	—	free	462	462	50	(4)
2009 60	Mixtures of juices	15	34	385	385	0	(4)
2303 10 11 0	Residues from the manufacture of starch from maize, of a protein content exceeding 40 % by weight	—	free	443	443	0	(4)
2309 10 11 2309 10 51 2309 10 90	Dog or cat food	—	free	750	1 500	150	
2309 90 excl. 2309 90 10	Preparations of a kind used in animal feeding, other than dog or cat food, put up for retail sale	15	8,5	12 752	12 752	0	(4)
2401 10 2401 20	Tobacco	—	free	6 000	6 000	0	(4)

(1) Notwithstanding the rules for the interpretation of the Bulgarian customs tariff (BCT), the wording of the description of the products is to be considered as having no more than indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the BCT code. Where ex BCT codes are indicated, the preferential scheme is to be determined by application to the BCT code and corresponding description taken together.

(2) Where duty rates appear in both columns (I and II), the applicable duty is the lower of the two in *ad valorem* terms.

(3) This concession is only applicable to products not benefiting from any kind of export subsidies and, in the case of cereals products (CN chapters 10 and 11), accompanied by an export licence with an indication to that effect.

(4) Quantities of goods subject to this existing tariff quota and released for free circulation as from 1 July 2002 before the entry into force of this Protocol shall be fully counted against the quantity provided for in the fifth column.

COMMISSION

COMMISSION DECISION

of 14 April 2003

establishing the ecological criteria for the award of the Community eco-label to tourist accommodation service

(notified under document number C(2003) 235)

(Text with EEA relevance)

(2003/287/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⁽¹⁾, and in particular the second subparagraph of Article 6(1) thereof and the sixth paragraph of point 2 of Annex V thereof,

Whereas:

- (1) Under Regulation (EC) No 1980/2000 the Community eco-label may be awarded to a product possessing characteristics which enable it to contribute significantly to improvements in relation to key environmental aspects.
- (2) Regulation (EC) No 1980/2000 provides that specific eco-label criteria are to be established according to product groups.
- (3) In the case of tourist accommodation service, the ecological criteria should be divided into mandatory criteria, all of which must be complied with, and optional criteria, only a number of which need be complied with.
- (4) As regards the related fees, reductions should be made as provided for by Regulation (EC) 1980/2000 and Article 5 of Commission Decision 2000/728/EC of 10 November 2000 establishing the application and annual fees of the Community eco-label⁽²⁾.
- (5) In the case of micro enterprises and mountain huts, it is appropriate to provide for further reductions in the fees in order to take account of their limited resources and their particular importance within this product group.

(6) The measures provided for in this Decision are based on the draft criteria developed by the European Union Eco-labelling Board established under Article 13 of Regulation (EC) No 1980/2000.

(7) The measures provided for in this Decision are in accordance with the opinion of the Committee instituted by Article 17 of Regulation (EC) No 1980/2000,

HAS ADOPTED THIS DECISION:

Article 1

In order to be awarded the Community eco-label under Regulation (EC) No 1980/2000 the service provided must fall within the product group 'tourist accommodation service' as defined in Article 2 of this Decision and must comply with the ecological criteria set out in the Annex to this Decision.

These criteria are divided into mandatory criteria, all of which must be complied with, and optional criteria, a number of which must be complied with, as indicated in the Annex.

Article 2

The product group 'tourist accommodation service' shall comprise the provision, for a fee, of sheltered overnight accommodation in appropriately equipped rooms, including at least a bed, offered as a main service to tourists, travellers and lodgers. The provision of overnight sheltered accommodation may include the provision of food services, fitness activities and/or green areas.

⁽¹⁾ OJ L 237, 21.9.2000, p. 1.

⁽²⁾ OJ L 293, 22.11.2000, p. 18.

Article 3

1. The application and annual fees shall be as laid down in Decision 2000/728/EC.

2. By way of derogation from paragraph 1, the application fee for micro enterprises and mountain huts shall be reduced by 75 % with no other reduction possible.

The minimum annual fee shall be EUR 100, and the annual volume of sales, from which the annual fee is calculated, shall be reduced by 50 %.

The annual volume of sales shall be calculated by multiplying the delivery price by the number of overnight stays and reducing the resulting product by 50 %. The delivery price shall be considered as the average fee paid by the guest for the overnight stay, including all the services which do not entail an extra charge. The reductions to the minimum annual fee set out in Article 2 of Decision 2000/728/EC shall apply.

3. For the purposes of this Decision, micro-enterprises are as defined in Commission Recommendation 96/280/EC of 3 April 1996 concerning the definition of small and medium-sized enterprises ⁽¹⁾ and its subsequent amendments, and mountain huts shall mean a tourist accommodation suitable for offering a sheltered overnight stay in isolated mountain areas to mountaineers and hikers.

Article 4

For administrative purposes the code number assigned to the product group 'tourist accommodation service' shall be '25'.

Article 5

This Decision shall apply from 1 May 2003 until 30 April 2007. If on 30 April 2007 revised criteria have not been adopted, this Decision shall apply until 30 April 2008.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 14 April 2003.

For the Commission
Margot WALLSTRÖM
Member of the Commission

⁽¹⁾ OJ L 107, 30.4.1996, p. 4.

ANNEX

FRAMEWORK

The aims of the criteria

The criteria aim to limit the main environmental impacts from the three phases of the service's life cycle (purchasing, provision of the service, waste). In particular they aim to:

- limit energy consumption,
- limit water consumption,
- limit waste production,
- favour the use of renewable resources and of substances which are less hazardous to the environment,
- promote environmental communication and education.

Assessment and verification requirements

The specific assessment and verification requirements are indicated within each criterion.

Where appropriate, test methods and standards other than those indicated for each criterion may be used if their equivalence is accepted by the Competent Body assessing the application.

Where the applicant is required to provide declarations, documentation, analyses, test reports, or other evidence to show compliance with the criteria, it is understood that these may originate from the applicant and/or his supplier(s) and/or their supplier(s), et cetera, as appropriate.

Where appropriate, Competent Bodies may require supporting documentation and may carry out independent verifications.

The Competent Bodies are recommended to take into account the implementation of recognised environmental management schemes, such as EMAS or ISO 14001, when assessing applications and monitoring compliance with the criteria. (Note: it is not required to implement such management schemes.)

MANDATORY CRITERIA

All the criteria in this section must be fulfilled.

ENERGY

1. Electricity from renewable sources

At least 22 % of the electricity shall come from renewable energy sources, as defined in Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market ⁽¹⁾.

This criterion only applies to tourist accommodation that has access to a market that offers energy generated from renewable energy sources.

Assessment and verification: The applicant shall supply a declaration from (or the contract with) the electricity supplier indicating the nature of the renewable energy source(s), the percentage of electricity supplied that is from a renewable source, and an indication of the maximum percentage that can be supplied. According to Directive 2001/77/EC, renewable energy sources shall mean renewable non-fossil energy sources (wind, solar, geothermal wave, tidal, hydro power, biomass, landfill gas, sewage treatment plant gas and biogases).

2. Coal and heavy oils

No heavy oils having a sulphur content higher than 0,2 % and no coal shall be used as an energy source.

This criterion only applies to tourist accommodation that has an independent heating system.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, indicating the nature of the energy sources used.

3. Electricity for heating

At least 22 % of the electricity used for heating rooms and sanitary hot water shall be from renewable energy sources, as defined in Directive 2001/77/EC.

⁽¹⁾ OJ L 283, 27.10.2001, p. 33.

This criterion only applies to tourist accommodation that has an independent electrical heating system and has access to a market that offers electricity generated from renewable energy sources.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, indicating the nature and amounts of the energy sources used for heating, together with documentation on the boilers (heat generators) used, if any.

4. Boiler efficiency

The efficiency of any new boiler (heat generator) bought within the duration of the eco-label award shall be at least 90 %, as measured according to Council Directive 92/42/EEC of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels ⁽¹⁾, or according to relevant product norms and regulations for those boilers not covered by this Directive.

Hot-water boilers fired with liquid or gaseous fuels as defined in Directive 92/42/EEC shall comply with efficiency standards as stated in the Directive.

The efficiency of boilers excluded from Directive 92/42/EEC shall comply with the manufacturer's instructions and with national and local legislation on efficiency.

Assessment and verification: The applicant shall provide a technical report from those responsible for the sale and/or maintenance of the boiler indicating the efficiency. Directive 92/41/EC defines useful efficiency (expressed in %) as the ratio between the heat output transmitted to the boiler water and the product of the net calorific value at constant fuel pressure and the consumption expressed as a quantity of fuel per unit time.

Article 3 of Directive 92/42/EEC excludes the following boilers: hot-water boilers capable of being fired by different fuels including solid fuels; equipment for the instantaneous preparation of hot water; boilers designed to be fired by fuels the properties of which differ appreciably from the properties of the liquid and gaseous fuels commonly marketed (industrial waste gas, biogas, etc.); cookers and appliances designed mainly to heat the premises in which they are installed and, as a subsidiary function, to supply hot water for central heating and sanitary hot water.

5. Air conditioning

Any air conditioning system bought within the duration of the eco-label award shall have at least Class B energy efficiency as laid down in Commission Directive 2002/31/EC of 22 March 2002 implementing Council Directive 92/75/EEC with regard to energy labelling of household air-conditioners ⁽²⁾, or have corresponding energy efficiency.

Note: This criterion does not apply to air-conditioners that are either appliances that can also use other energy sources, or air-to-water and water-to-water appliances, or units with an output (cooling power) greater than 12 kW.

Assessment and verification: The applicant shall provide a technical report from the professional technicians responsible for installation, sale and/or maintenance of the air conditioning system

6. Window insulation

All windows in rooms shall have an appropriately high degree of thermal insulation according to local climate, and shall provide an appropriate degree of acoustic insulation.

Assessment and verification: The applicant shall provide a self-declaration if sufficient or a declaration from a professional technician indicating compliance with this criterion.

7. Switching off heating or air conditioning

If the heating and/or the air conditioning is not automatically switched off when windows are open, there shall be easily available information reminding the guest to close the window(s) if the heating or air conditioning is on.

This criterion only applies to tourist accommodation that has heating and/or air conditioning.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with the text of the information (if applicable).

⁽¹⁾ OJ L 167, 22.6.1992, p. 17.

⁽²⁾ OJ L 86, 3.4.2002, p. 26.

8. Switching off lights

If there is no automatic off switch for the light(s) in the room, there will be easily available information to the guests asking them to turn off the lights when leaving the room.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with the information procedures.

9. Energy efficient light bulbs

- (a) Within one year from the date of application, at least 60 % of all light bulbs in the accommodation shall have an energy efficiency of Class A as defined in Commission Directive 98/11/EC of 27 January 1998 implementing Council Directive 92/75/EEC with regard to energy labelling of household lamps ⁽¹⁾. This does not apply to light bulbs whose physical characteristics do not allow substitution by energy saving light bulbs.
- (b) Within one year from the date of application, at least 80 % of light bulbs that are situated where they are likely to be turned on for more than five hours a day shall have an energy efficiency of Class A as defined by Directive 98/11/EC. This does not apply to light bulbs whose physical characteristics do not allow substitution by energy saving light bulbs.

Assessment and verification: The applicant shall provide a declaration of compliance with both parts of this criterion, together with an indication of the energy efficiency class of the different light bulbs used.

10. Sauna timer control

All sauna units shall have a timer control.

Assessment and verification: The applicant shall provide a technical report from the professional technicians responsible for the installation and/or maintenance of these systems.

WATER

11. Water source

The accommodation shall declare to the water authority its willingness to switch to a different water source (e.g. mains water, surface water) if local water protection plan studies show evidence of a high environmental impact from using its current source of water.

This criterion only applies if the tourist accommodation is not receiving its water from a mains water pipe.

Assessment and verification: The applicant shall provide a declaration as above, together with appropriate documentation including the results of local water protection plan studies (if any), an indication of any necessary action to be taken, and documentation of relevant actions taken.

12. Water flow from taps and showers

The water flow of the taps and showers shall not exceed 12 litres/minute.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with an explanation as to how the accommodation fulfils the criterion, and relevant documentation as appropriate.

13. Water saving in the bathroom and toilets

In the bathroom and toilets there shall be adequate information to the guest on how to help the accommodation save water.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with relevant information to guest.

14. Waste bins in toilets

Each toilet shall have an appropriate waste bin and the guest shall be invited to use the waste bin instead of the toilet for appropriate waste.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with an indication of the information to the guest.

⁽¹⁾ OJ L 71, 10.3.1998, p. 1.

15. Urinal flushing

Urinals shall have an automatic or manual flush such that no more than five urinals shall be flushed together.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with relevant documentation on the urinals installed.

16. Leaks

Staff shall be trained to check every day for visible leaks and to take appropriate action as necessary. The guest shall be invited to inform the staff of any leaks.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with relevant documentation on the topics covered in the training, and a copy of the information addressed to the guests.

17. Changing towels and sheets

The guest shall be informed of the environmental policy of the tourist accommodation whereby sheets and towels shall be changed either at his or her request, or by default once a week for lower class accommodation, and twice a week for higher class accommodation.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with relevant documentation showing how the guest is informed.

18. Watering plants and gardens

Flowers and gardens shall normally be watered before high sun or after sunset, where regional or climatic conditions make it appropriate.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion.

19. Waste water treatment

All waste water shall be treated.

If no link is possible to the local sewage treatment plant, the tourist accommodation shall have its own treatment system that meets the requirements of relevant local, national or European legislation.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with documentation on the connection to the local sewage treatment plant or on its own waste water treatment system as appropriate.

20. Waste water plan

The accommodation shall ask the local administration for its waste water plan and if there is one will follow it.

Assessment and verification: The applicant shall provide the letter to the local waste water management requesting the local waste water design plan and the reply received. If there is a plan, the applicant shall provide documentation on the steps taken to follow it.

DETERGENTS AND DISINFECTANTS

21. Disinfectants

Disinfectants shall be used only where necessary in order to comply with legal hygiene requirements.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with an indication of where and when disinfectants are used.

22. Staff training on detergent and disinfectant use

Staff shall be trained not to exceed the recommended amount of detergent and disinfectant indicated on the packaging.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with details of the relevant training.

WASTE

23. Waste separation by guests

Adequate receptacles shall be provided to allow guests to separate waste according to local or national systems. Clearly available information in the rooms shall ask the guests to separate their waste.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with details of the receptacles and a copy of the signs/information.

24. Hazardous waste

The staff shall separate hazardous waste as listed in Commission Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste ⁽¹⁾ and its subsequent amendments, and appropriate disposal shall be sought. This includes toners, inks, refrigerating equipment, batteries, pharmaceuticals.

If the local authority does not provide disposal of hazardous waste, the applicant shall, every year, provide a declaration from the local authority that there is no hazardous waste disposal system in place.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with a list of the hazardous wastes produced by the tourist accommodation, and an indication of the means by which they are handled, separated, collected and disposed of, including copies of relevant contracts with third parties. Where appropriate the applicant shall provide every year the corresponding declaration from the local authority.

25. Waste separation

The staff shall separate waste into the categories that can be handled separately by the local or national waste management facilities. If the local administration does not offer separate waste collection and/or disposal, the accommodation shall write to them expressing their willingness to separate waste, and expressing their concern about the lack of separate collection and/or disposal.

The request to local authorities to provide separate waste collection and/or disposal shall be made yearly.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with an indication of the different categories of waste accepted by the local authorities, and the procedures for collecting, separating, handling and disposing of these categories within the tourist accommodation, and/or relevant contracts with private agencies. Where appropriate the applicant shall provide every year the corresponding declaration to the local authority.

26. Waste transportation

If the local waste management authorities do not collect waste at or near the tourist accommodation, the latter shall ensure transportation of its waste to the appropriate site, reducing transport as far as possible.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with an indication of the appropriate sites, transport arrangements and distances involved.

27. Disposable products

Unless required by law, none of the following disposable products shall be used in rooms and restaurants:

- 'one-portion' or 'one-use' toiletries (such as shampoo, soap, shower caps, etc.),
- cups, plates and cutlery.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with an indication of which such disposable products are used and the legislation requiring this.

OTHER SERVICES

28. No smoking in common areas

A no smoking section shall be available in common areas.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion.

⁽¹⁾ OJ L 226, 6.9.2000, p. 3.

29. Public transportation

Information shall be made easily available to the guests and staff on how to reach the accommodation and other local destinations by public transport. Where no appropriate public transport exists, information on other environmentally preferable means of transport shall also be provided.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with copies of the information material available.

GENERAL MANAGEMENT

Applicants with an Environmental Management System registered under the EMAS Regulation or certified according to ISO 14001 automatically fulfil the mandatory general management criteria listed just below. In this case, the means of verification of compliance with these mandatory management criteria is the EMAS registration or ISO 14001 certification.

30. General maintenance and servicing

All equipment used to provide the tourist accommodation service shall be serviced and maintained in compliance with the law and when otherwise necessary, and the work shall be carried out by qualified personnel only.

Of the equipment included in the criteria, the accommodation manager shall have a written declaration from the technician on the frequency with which the law requires maintenance checks.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together a list of the equipment and the persons/companies carrying out the maintenance.

31. Maintenance and servicing of boilers

- (a) Maintenance and servicing of boilers shall be carried out at least yearly, or more often if so required by law or need, by appropriately qualified professionals, following CEI and national standards where these apply, or according to the manufacturer's instructions.
- (b) Testing that the efficiency levels, as defined by Directive 92/42/EEC or national legislation or the manufacturer's indications, are met and that emissions are within legal limits shall be carried out once a year. If maintenance tests show that the above conditions are not met, corrective action shall be promptly taken.

Assessment and verification: The applicant shall provide a declaration of compliance with both parts of this criterion, together a description of the boilers and their maintenance programme, and details of the persons/companies carrying out the maintenance, and what is checked during the maintenance.

32. Policy setting and action program

The management shall have an environmental policy and shall draw up a simple environmental policy statement and a precise action program to ensure the application of the environmental policy.

The action program shall identify targets on environmental performance regarding energy, water, chemicals and waste which shall be set every two years, taking into consideration the optional criteria. It shall identify the person who will act as the environmental manager of the accommodation and who is in charge of taking the necessary actions and reaching the targets. Comments and complaints from guests shall be invited and taken into account.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with a copy of the environmental policy, policy statement and action program, and procedures for taking into account input from guests.

33. Staff training

The tourist accommodation shall provide information and training to the staff, including written procedures or manuals, to ensure the application of environmental measures and to raise awareness on environmentally friendly behaviour. Adequate training shall be provided to all new staff within four weeks of starting employment and for all staff at least once a year.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with details of the training programme, its content, and an indication of which staff have received what training and when.

34. Information to guests

The tourist accommodation shall provide information to the guests, including conference participants, on its environmental policy, the actions taken and the EU eco-label. Information shall be actively given to the guests at the reception and notices inviting guests to support the environmental objectives shall be visible to the guests, especially in their rooms.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with copies of the information and notices provided for the guests.

35. Energy and water consumption data

The tourist accommodation shall have procedures to collect and monitor data on overall energy consumption (kWh), electricity consumption (kWh), energy used for heating (kWh), and water consumption (litres).

Data shall be collected with every bill received, or at least every three months, and shall also be expressed as consumption per overnight stay and per m² of indoor area. The accommodation shall report the results yearly to the Competent Body that assessed the application.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with a description of the procedures. On application, the applicant shall provide the data for the above-listed consumptions for at least the previous three months (if already available), and thereafter every year shall provide this data for the previous year.

36. Other data collection

The tourist accommodation shall have procedures to collect and monitor data on consumption of chemicals (grams of dry substance) and the volume of waste produced (litres and/or kg of unsorted waste).

Data shall be collected at least every six months, and shall also be expressed as consumption or production per overnight stay and per m² of indoor area. The accommodation shall report the results yearly to the competent body that assessed the application.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with a description of the procedures. On application, the applicant shall provide the data for the above-listed consumptions for at least the previous six months (if already available), and thereafter every year shall provide this data for the previous year. The applicant shall specify the services offered and if laundry is cleaned on the premises.

37. Information appearing on the eco-label

Box 2 of the eco-label shall contain the following text:

- measures taken to save energy and water,
- measures taken to reduce waste,
- general environmental improvement.

Assessment and verification: The applicant shall provide a sample of the supports on which they use the label, together with a declaration of compliance with this criterion.

OPTIONAL CRITERIA

Score requirements

As indicated in the title of each criterion in this section, all optional criteria have been awarded score points. The number of criteria complied with must correspond to a total of 16,5 points.

The total score required shall be increased by 1 point for each of the following three additional facilities offered that are under the management or ownership of the tourist accommodation service: food services, fitness activities, green areas.

Food services includes breakfast. Fitness activities include saunas, swimming pools and all other such facilities which are within the accommodation grounds. Green areas include parks and gardens which are open to guests.

ENERGY

38. Photovoltaic and wind generation of electricity (2 points)

The tourist accommodation shall have a photovoltaic system or wind power electricity generation that supplies or will supply at least 20 % of the overall electricity consumption per year.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with documentation on the photovoltaic or the wind power system and data on both its potential and actual output.

39. Heating from renewable energy sources (1,5 points)

At least 50 % of the total energy used to heat either the rooms or the hot sanitary water shall come from renewable energy sources.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with data on the energy consumed in heating rooms and hot water and documentation showing that at least 50 % of this energy comes from renewable energy sources.

40. Boiler energy efficiency (1 point)

The tourist accommodation shall have a four-star boiler as defined by Article 6 of Directive 92/42/EC.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with a report from the professional technicians responsible for the sale and/or maintenance of the boiler.

41. Boiler NO_x emissions (1,5 points)

The boiler shall be class 5 of the EN 297 prA3 norm regulating NO_x emissions, and shall emit less than 70 mg NO_x/kWh.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with a report from the professional technicians responsible for the sale and/or maintenance of the boiler.

42. District heating (1 point)

The heating of the tourist accommodation shall be provided by district heating.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with documentation showing connection to the district heating.

43. Combined heat and power (1,5 points)

All electricity and heating of the accommodation shall be provided by a combined heat and power plant.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with documentation on the combined heat and power plant.

44. Heat pump (1,5 points)

The tourist accommodation shall have a heat pump providing heat and/or air conditioning.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with documentation on the heat pump.

45. Heat recovery (2 points)

The tourist accommodation shall have a heat recovery system for 1 (1 point) or 2 (2 points) of the following categories: refrigeration systems, ventilators, washing machines, dishwashers, swimming pool(s), sanitary waste water.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with documentation on the heat recovery systems.

46. Thermoregulation (1,5 points)

The temperature in every room shall be individually regulated.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with documentation on the thermoregulatory systems.

47. Insulation of existing buildings (2 points)

The building shall have insulation above the minimal national requirements, so as to ensure a significant reduction of energy consumption.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion from the appropriate energy technician, together with documentation on the insulation and on the minimum national requirements.

48. Air conditioning (1,5 points)

The air conditioning system shall have Class A energy efficiency as laid down in Commission Directive 2002/31/EC of 22 March 2002 implementing Council Directive 92/75/EEC with regard to energy labelling of household air-conditioners ⁽¹⁾, or have corresponding energy efficiency.

This criterion does not apply to appliances that can also use other energy sources, air-to-water and water-to-water appliances, or units with an output (cooling power) greater than 12 kW.

Assessment and verification: The applicant shall provide a technical report from the professional technicians responsible for installation, sale and/or maintenance of the air conditioning system.

49. Automatic switching-off of air conditioning (1 point)

There shall be an automatic system that turns off the air conditioning when windows are open.

Assessment and verification: The applicant shall provide a technical report from the professional technicians responsible for the installation sale and/or maintenance of the air conditioning system.

50. Bioclimatic architecture (2 points)

The tourist accommodation shall be built according to bioclimatic architectural principles.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate documentation.

51. Energy efficient refrigerators (1 point), dishwashers (1 point), washing machines (1 point) and office equipment (1 point)

(a) (1 point): All household refrigerators shall be of Class A efficiency according to Commission Directive 94/2/EC of 21 January 1994 implementing Council Directive 92/75/EEC with regard to energy labelling of household electric refrigerators, freezers and their combinations ⁽²⁾, and all frigo- or mini-bars shall be at least class C.

Assessment and verification: The applicant shall provide documentation indicating the energy class of all the refrigerators and frigo- or mini-bars, indicating those that have an eco-label.

(b) (1 point): All household dishwashers shall be of class A energy efficiency as laid down in Commission Directive 97/17/EC of 16 April 1997 implementing Council Directive 92/75/EEC with regard to energy labelling of household dishwashers ⁽³⁾.

Assessment and verification: The applicant shall provide documentation indicating the energy class of all the dishwashers, indicating those that have an eco-label.

Note: dishwashers not covered by Directive 97/17/EC (e.g. industrial dishwashers) need not comply.

(c) (1 point): All household washing machines shall be of class A energy efficiency as laid down in Commission Directive 95/12/EC of 23 May 1995 implementing Council Directive 92/75/EEC with regard to energy labelling of household washing machines ⁽⁴⁾.

Assessment and verification: The applicant shall provide documentation indicating the energy class of all the washing machines, indicating those that have an eco-label.

Note: washing machines not covered by Directive 95/12/EC (e.g. industrial washing machines) need not comply.

(d) (1 point): At least 80 % of office equipment (PCs, monitors, faxes, printers, scanners, photocopying machines) shall qualify for the energy star as laid down in Regulation (EC) No 2422/2001 of the European Parliament and of the Council of 6 November 2001 on a Community energy efficiency labelling programme for office equipment ⁽⁵⁾.

Assessment and verification: The applicant shall provide documentation indicating the qualification for the energy star of the office equipment, and/or indicating those PCs and portables that have an eco-label.

⁽¹⁾ OJ L 86, 3.4.2002, p. 26.

⁽²⁾ OJ L 45, 17.2.1994, p. 1.

⁽³⁾ OJ L 118, 7.5.1997, p. 1.

⁽⁴⁾ OJ L 136, 21.6.1995, p. 1.

⁽⁵⁾ OJ L 332, 15.12.2001, p. 1.

52. Refrigerator positioning (1 point)

The kitchen refrigerator(s) shall be positioned and regulated according to energy saving principles.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion.

53. Automatic switching off lights in guest rooms (1 point)

Automatic systems which turn the lights off when guests leave their rooms shall be installed in 80 % of the guest rooms.

Assessment and verification: The applicant shall provide a technical report from the professional technicians responsible for the installation and/or maintenance of these systems.

54. Automatic switching off outside lights (1 point)

Unnecessary outside lights shall be turned off automatically.

Assessment and verification: The applicant shall provide a technical report from the professional technicians responsible for the installation and/or maintenance of these systems.

WATER

55. Use of rainwater (1,5 points) and recycled water (1,5 points)

(a) (1,5 points): Rainwater shall be collected and used for non-sanitary and non-drinking purposes.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation, and appropriate assurances that the sanitary and drinking water supply is kept entirely separate.

(b) (1,5 points): Recycled water shall be collected and used for non-sanitary and non-drinking purposes.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation and appropriate assurances that the sanitary and drinking water supply is kept entirely separate.

56. Water flow from taps and shower heads (1,5 points)

The average flow from all taps and shower heads excluding bath taps shall not exceed 8,5 litres/minute.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation.

57. WC flushing (1,5 points)

At least 80 % of WCs shall consume six litres per flush or less.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation.

58. Dishwasher water consumption (1 point)

The water consumption of the dishwashers (expressed as $W_{\text{(measured)}}$) shall be lower or equal to the threshold as defined in the equation below using the same test method EN 50242 and programme cycle as chosen for Commission Directive 97/17/EC:

$$W_{\text{(measured)}} \leq (0,625 \times S) + 9,25,$$

where:

$W_{\text{(measured)}}$ = the measured water consumption of the dishwasher in litres per cycle, expressed to the first decimal,

S = the applicable number of standard place settings of the dishwasher.

Assessment and verification: The applicant shall provide a technical report from the professional technicians responsible for the manufacture, sale or maintenance of the dishwashers or evidence that the dishwashers have been awarded the Community eco-label.

59. Washing machine water consumption (1 point)

The washing machines used by the accommodation or by its laundry service provider shall use 12 litres of water or less per kg of wash-load measured according to EN 60456:1999, using the same standard 60 °C cotton cycle as chosen for Directive 95/12/EC.

Assessment and verification: The applicant shall provide a technical report from the professional technicians responsible for the manufacture, sale or maintenance of the washing machines or evidence that the washing machines have been awarded the Community eco-label. The accommodation structure shall provide technical documentation from its laundry service provider that their washing machine complies with the criterion.

60. Tap water temperature and flow (1 point)

At least 80 % of taps shall allow a precise and prompt regulation of the water temperature and of the water flow.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation.

61. Shower timers (1 point)

Showers in kitchens or outdoors shall have a system to stop the flow of water automatically after a certain time or if not in use.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation.

DANGEROUS CHEMICALS

62. Detergents (up to 4 points)

At least 80 % by weight of hand dishwashing detergents and/or detergents for dishwashers and/or laundry detergent and/or all purpose cleaners used by the tourist accommodation shall have been awarded the Community eco-label or other national or regional ISO Type I eco-labels (1 point for each of these four categories of detergents).

Assessment and verification: The applicant shall provide data and documentation (including relevant invoices) indicating the quantities of such products used and the quantities that have an eco-label.

63. Indoor paints and varnishes (1 point)

At least 50 % of the indoor painting of the tourist accommodation shall be done with indoor paints and varnishes awarded with the Community eco-label or other national or regional ISO Type I eco-labels.

Assessment and verification: The applicant shall provide data and documentation (including relevant invoices) indicating the quantities of such products used and the quantities that have an eco-label.

64. Dosage of swimming pool disinfectant (1 point)

The swimming pool shall have an automatic dosage system that uses the minimum amount of disinfectant for the appropriate hygienic result.

Assessment and verification: The applicant shall provide a technical documentation concerning the automatic dosage system.

65. Mechanical cleaning (1 point)

The tourist accommodation shall have precise procedures for conducting chemical-free cleaning, such as use of micro fibre products or other non-chemical cleaning materials or activities with similar effects.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation if relevant.

66. Organic gardens (1 point)

Green areas shall be managed either without any use of pesticides or according to organic farming principles, as laid down in Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs⁽¹⁾ and its subsequent amendments, or as laid down in national law or recognised national organic schemes.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation if relevant.

⁽¹⁾ OJ L 198, 22.7.1991, p. 1.

WASTE

67. Composting (2 points)

The tourist accommodation shall separate relevant organic waste (garden waste 1 point; kitchen waste 1 point) and shall ensure that it is composted according to local authority guidelines (e.g. by the local administration, in-house or by a private agency).

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation if relevant.

68. Disposable drink cans (2 points)

Except where required by law, disposable drink cans shall not be offered in the areas under the ownership or the direct management of the accommodation.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with an indication of which such disposable products are used, if any, and the legislation requiring this.

69. Breakfast packaging (2 points)

Except where required by law, single dose packages shall not be used for breakfast.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation.

70. Fat/oil disposal (2 points)

Fat separators shall be installed and pan fat/oils and deep-frying fat/oils shall be collected and disposed of appropriately.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation.

71. Used textiles and furniture (2 points)

Used furniture, textiles and other material shall be sold or given to charity or to other associations which collect and redistribute such goods.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation from the associations.

OTHER SERVICES

72. Environmental communication and education (1,5 points)

The tourist accommodation shall provide environmental communication and education notices on local biodiversity, landscape and nature conservation measures to guests.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation.

73. No smoking in rooms (1 point)

Smoking shall not be allowed in at least 50 % of rooms.

Assessment and verification: The applicant shall indicate the number and nature of the rooms and shall indicate which of these are non-smoking.

74. Bicycles (1 point)

Bicycles shall be made available to guests.

Assessment and verification: The applicant shall provide an explanation of how the accommodation fulfils this criterion.

75. Refillable bottles (2 points)

The tourist accommodation shall offer at least one of the following beverages in refillable bottles: soft drinks, water and beer.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with appropriate supporting documentation from the suppliers of the bottles.

76. Paper products (up to 2 points)

At least 50 % of toilet/tissue paper and/or office paper used shall have been awarded the Community eco-label or other national or regional ISO Type 1 eco-labels (1 point for each of these two categories of paper products)

Assessment and verification: The applicant shall provide data and documentation (including relevant invoices) indicating the quantities of such products used and the quantities that have an eco-label.

77. Durable goods (up to 3 points)

At least 10 % of any category of durable goods (such as bed-linen, towels, table linen, PCs, portables, TVs, mattresses, furniture, washing machines, dishwashers, refrigerators, vacuum cleaners, hard-floor coverings, light bulbs,...) present in the tourist accommodation shall have been awarded the Community eco-label or other national or regional ISO Type 1 eco-labels (1 point for each of up to three categories of durable goods).

Assessment and verification: The applicant shall provide data and documentation indicating the quantities of such products owned and the quantities that have an eco-label.

78. Organic food (1 point)

The main ingredients of at least two dishes shall have been produced by organic farming methods, as laid down in Regulation (EEC) No 2092/91.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with appropriate supporting documentation.

79. Local food products (1 point)

At least two locally sourced food products shall be offered at each meal, including breakfast.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with appropriate supporting documentation.

GENERAL MANAGEMENT

80. EMAS registration (3 points) or ISO certification (1,5 points) of the tourist accommodation

The tourist accommodation shall be registered under the Community eco-management and audit scheme (EMAS) (3 points) or certified according to ISO 14001 (1,5 points).

Assessment and verification: The applicant shall provide appropriate evidence of EMAS registration or ISO 14001.

81. EMAS registration (1,5 points) or ISO certification (1 point) of suppliers

At least one of the main suppliers or service providers of the tourist accommodation shall be registered with EMAS (1,5 points) or certified according to ISO 14001 (1 point).

Assessment and verification: The applicant shall provide appropriate evidence of EMAS registration or ISO 14001 certification by at least one of his main suppliers.

82. Environmental questionnaire (1 point)

The accommodation shall provide its guests with a questionnaire covering their views about the environmental aspects of the accommodation.

Assessment and verification: The applicant shall provide a copy of the questionnaire and indicate its procedures for distributing and collecting it, and for taking the replies into account.

83. Energy and water meters (1 point)

The accommodation shall have installed additional energy and water meters so as to allow data collection on consumption of different activities or machines.

Assessment and verification: The applicant shall provide a detailed explanation of how the accommodation fulfils this criterion, together with an analysis of the data collected (if already available).

84. Additional environmental actions (maximum 3 points)

Either:

- (a) Additional environmental actions (up to 1,5 points each, to a maximum of 3 points): The management of the tourist accommodation shall take additional actions to improve the environmental performance of the tourist accommodation and which are not covered by any of the above criteria (either mandatory or optional). The Competent Body assessing the application shall attribute a score to these actions not exceeding 1,5 points per action.

Assessment and verification: The applicant shall provide a declaration of compliance with this criterion, together with a full description of each additional action the applicant wishes to be taken into account;

or

- (b) Eco-label award (3 points): The tourist accommodation shall be awarded one of the national or regional ISO Type I eco-labels.

Assessment and verification: The applicant shall provide appropriate evidence of having been awarded an eco-label.



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