

English edition

Legislation

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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1023/2003

of 13 June 2003

extending the definitive anti-dumping duty imposed by Regulation (EC) No 1784/2000 on imports of certain malleable cast iron tube or pipe fittings originating in Brazil and on imports of certain malleable cast iron tube or pipe fittings consigned from Argentina, whether declared as originating in Argentina or not, and terminating the investigation in respect of imports from one Argentinian exporter

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, and in particular Article 13 thereof,

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

Whereas:

A. PROCEDURE

1. Existing measures

- (1) By Regulation (EC) No 1784/2000 ⁽²⁾, the Council imposed in August 2000 an anti-dumping duty of 34,8 % on imports of threaded malleable cast iron tube or pipe fittings (malleable fittings) originating in Brazil.

2. Request

- (2) On 12 August 2002, the Commission received a request, pursuant to Article 13(3) of Regulation (EC) No 384/96 (the basic Regulation), from the Defence Committee of the Malleable Cast Iron Pipe Fittings Industry of the European Union. This request was submitted on behalf of producers representing a major proportion of the Community production of malleable fittings.

- (3) The request alleged that following the imposition of measures on imports of malleable fittings originating in Brazil, there had been a significant change in the pattern of trade involving exports from Brazil and Argentina to the Community. This change in the pattern of trade was alleged to stem from a transshipment via Argentina of malleable fittings originating in Brazil. There had been a significant increase in imports from Argentina while imports from Brazil had decreased in roughly equivalent proportions in the meantime.

- (4) The request concluded that there was insufficient due cause or economic justification for the aforementioned changes other than the existence of the anti-dumping duty on malleable fittings originating in Brazil.

- (5) Finally, the Community industry also submitted sufficient evidence to initiate the anti-circumvention investigation, that the remedial effects of this duty were being undermined both in terms of quantities and prices and that the prices of malleable fittings from Argentina were dumped in relation to the normal values previously established for the malleable fittings originating in Brazil.

3. Initiation

- (6) By Regulation (EC) No 1693/2002 ⁽³⁾ (the initiating Regulation), the Commission initiated an investigation and directed, pursuant to Articles 13(3) and 14(5) of the basic Regulation, the customs authorities to register imports of malleable fittings consigned from Argentina, whether declared as originating in Argentina or not, as of 26 September 2002. The Commission advised the authorities of Brazil and Argentina of the initiation of the investigation.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).

⁽²⁾ OJ L 208, 18.8.2000, p. 8.

⁽³⁾ OJ L 258, 26.9.2002, p. 27. Regulation as amended by Regulation (EC) No 909/2003 (OJ L 128, 24.5.2003, p. 7).

4. Investigation

- (7) Questionnaires were sent to Community importers as well as exporters of malleable fittings located in Brazil and Argentina which were mentioned in the request, exporters known from the original investigation and other interested parties who came forward within the prescribed time limits. It was made clear to the importers and exporters that non-cooperation may lead to the application of Article 18 of the basic Regulation.
- (8) A number of Community importers made their views known in writing declaring that they had not imported any malleable fittings from Argentina.
- (9) Replies to the questionnaires were received from one Argentinian exporting producer, DEMA SA, San Justo, Buenos Aires. The Commission carried out a verification visit at the premises of this company.

5. Investigation period

- (10) The investigation period covered the period from 1 July 2001 to 30 June 2002 (the IP). Data were collected from 1998 up to the end of the IP to investigate the alleged change in the pattern of trade.

B. RESULTS OF THE INVESTIGATION

1. General considerations/degree of cooperation

- (11) No cooperation was received from producers or exporters of malleable fittings in Brazil. However, information was obtained from one cooperating exporting producer in Argentina, DEMA SA, which produced malleable fittings and exported them to the Community during the IP. This Argentinian company accounted for a negligible part both in volume and in value of the total imports of malleable fittings from Argentina to the Community during the IP, as reported by Eurostat.
- (12) Furthermore, in the course of the investigation the Argentinian authorities requested within the time limits set in the initiating Regulation to be treated as an interested party. Information and statistical data concerning Argentinian imports and exports were obtained from the Argentinian authorities.
- (13) In December 2002, one month after the expiry of the deadline for receipt of replies to the questionnaire, the Commission received a submission on behalf of Industrias Aguila Blanca SA (Argentina), who alleged to be a producer of malleable fittings in Argentina. The submission contained a request by this company to be consid-

ered as an interested party in the investigation and a request to be exempted from extension of measures. Given that the submission was received at such an advanced stage of the investigation and well beyond the deadlines laid down in Article 3 of the initiating Regulation and, in addition, would have required further explanations and verification, the company was informed that it could not be considered as cooperating in the investigation. Accordingly, the company was informed that findings in respect of it had to be made on the basis of the facts available in accordance with Article 18(1) of the basic Regulation.

2. Product concerned and like product

- (14) The product concerned, as defined in the original investigation, is threaded malleable cast iron tube or pipe fittings currently classifiable within CN code ex 7307 19 10.
- (15) The investigation showed that the malleable fittings exported to the Community from Brazil and those consigned from Argentina to the Community have the same basic characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

3. Change in the pattern of trade

Cooperating Argentinian exporter

- (16) During the IP, DEMA SA, the cooperating exporter exported only one container to the Community. No other exports to the Community took place during the IP or in the period for which data were collected. In fact, the only export preceding the one during the IP took place in 1992. Consequently there was no clear pattern of trade prior or after the imposition of the measures concerning Brazilian exports to the Community, and consequently no change of it. Moreover it has also been established that DEMA SA is both a manufacturer and exporter of malleable fittings operating production facilities for the complete production process of the product concerned. It only sells its own production and never purchased any malleable fittings from Brazil during the IP.
- (17) Given the above, DEMA SA has shown that there was no change in the pattern of trade regarding their exports to the Community. Consequently, the investigation with regard to malleable fittings exported by DEMA SA should be terminated.

Non-cooperating Argentinian exporters

(18) As far as the non-cooperating exporters are concerned the Commission had to establish the exports to the Community on the basis of facts available pursuant to Article 18 of the Basic Regulation. It was considered that Eurostat data at CN level were the best information available to establish the findings in respect of exports to the Community following the imposition of the anti-dumping duty on imports of malleable fittings originating in Brazil. The export price from Argentina to the EU was established on the basis of total export value and tonnes reported by Eurostat at CN level from which the quantities and values exported by the cooperating Argentinian company were deducted. In addition, for the data collected before the imposition of the measures, it was considered that Eurostat data at CN level were the best information available.

(19) The marked switch from imports from Brazil to the EU to those from Argentina to the EU coincided with the entry into force of Community anti-dumping measures on malleable fittings originating in Brazil in August 2000. Imports into the Community of malleable fittings from Brazil, following the imposition of anti-dumping measures by the Community, have decreased substantially from 3 737 tonnes in 2000 to 181 tonnes in 2001. At the same time, imports into the Community of malleable fittings from Argentina increased from 15 tonnes in 2000 to 3 087 in 2001. This pattern of trade was confirmed during the first six months of the IP. However, during the second half of the IP this change of pattern of trade was reversed due to the ongoing Argentinian anti-dumping investigation concerning imports of malleable fittings originating in Brazil. As a result, exports from Argentina decreased from 3 087 tonnes in 2001 to 202 tonnes in 2002. However, pending the outcome of this Argentinian anti-dumping investigation, it cannot be ruled out that the aforementioned change in the pattern of trade will be on a temporary basis only.

(20) A clear change in pattern of trade was nevertheless established in respect of the non-cooperating companies which manifestly coincided with the entry into force, in August 2000, of Community anti-dumping measures on malleable fittings originating in Brazil.

4. Insufficient due cause or economic justification (non-cooperating Argentinian exporters)

(21) Data provided by the Argentinian authorities show that imports of malleable fittings originating in Brazil into Argentina have increased substantially in the year 2001, at a pace similar to that of the increase of exports from

Argentina to the Community in the same period. In the absence of cooperation, it can therefore be inferred from the parallelism of the trends, that the imports from Brazil to Argentina were not meant for the Argentinian market, but were meant to be exported to the Community, a conclusion which is reinforced by the Argentinian export statistics made available by the Argentinian authorities.

(22) In the absence of cooperation, and given that the above-mentioned substitution of imports from Brazil for imports from Argentina took place immediately following the imposition of anti-dumping duties, it has to be concluded, in the absence of any other explanation, that the change in the pattern of trade stemmed from the imposition of the duty rather than from any other sufficient due cause or economic justification within the meaning of Article 13(1), second sentence, of the basic Regulation.

(23) Due to the above, it may reasonably be concluded that the vast majority of exports of malleable fittings from Brazil to Argentina were merely transhipped via Argentina to the Community.

5. Undermining of the remedial effects of the duty in terms of the prices and/or quantities of the like products (non-cooperating Argentinian exporters)

(24) It is evident from the figures in recital 19 that a clear quantitative change in the pattern of Community imports occurred since the imposition of measures. Indeed, in 1999 prior to the imposition of the measures, the exports to the Community of malleable fittings originating in Brazil were 4 518 tonnes according to Eurostat figures at CN level. These exports have fallen to a level of 3 737 tonnes in 2000 and 15 tonnes in 2001. In 2001 these exports were replaced by exports of the non-cooperating Argentinian exporters (accounting for 3 087 tonnes). This marked change in trade flows undermined the remedial effects of the measures in terms of the quantities imported into the Community market.

(25) With regard to prices, and given the low degree of cooperation, recourse had to be made to the best evidence available, i.e. Eurostat figures at CN level. This data revealed that the adjusted export prices from Argentina were around 5 % below the export prices of Brazilian exports in the original investigation. Consequently, it must be assumed that the export prices of Argentinian exports are below the injury elimination level of Community prices as established in the original investigation.

- (26) It is therefore concluded that the imports concerned undermined the remedial effects of the duty both in terms of quantities and prices.

6. Evidence of dumping in relation to the normal values previously established for like or similar products (non-cooperating Argentinian exporters)

- (27) In order to determine whether evidence of dumping could be found with respect to the malleable fittings exported to the Community from Argentina by the non-cooperating exporters during the IP, export data according to Eurostat at CN level were used pursuant to Article 18 of the basic Regulation.

Approach based on export data reported by Eurostat

- (28) In accordance with Article 13(1) of the basic Regulation, the normal value to be used in an anti-circumvention investigation is the normal value established during the original investigation.
- (29) In the original investigation, normal value for Brazil was determined per type of malleable fitting. In the current anti-circumvention investigation the export prices were determined on the basis of Eurostat data, which do not provide export price data per type of malleable fitting but only per tonne and per CN code. In the absence of cooperation, for comparison purposes of these export prices with the normal value established in the original investigation, the product mix of the non-cooperating Argentinian producers/exporters was assessed on the basis of the product mix of export sales to the Community in the original investigation. This comparison was considered reasonable since it was established that the Argentinian exports were supplied by the same Brazilian exporter responsible for the majority of exports in the original investigation. Consequently, a weighted average normal value per tonne based on a product mix equal to the product mix in the original investigation was established.
- (30) For the purpose of a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences which affect prices and price comparability. These adjustments were made in accordance with Article 2(10) of the basic Regulation in respect of transport and insurance and based on the exports of DEMA SA.
- (31) In accordance with Article 2(11) and (12) of the basic Regulation, the comparison of weighted average normal values with weighted average export prices expressed as a percentage of the cif Community frontier price, revealed a level of dumping of more than 40 %.

C. REQUESTS FOR EXEMPTION FROM REGISTRATION OR EXTENSION OF THE DUTY

- (32) The Commission received requests for exemption from the registration and measures from two Argentinian producers, Industrias Aguila Blanca SA and DEMA SA. As stated in recital 11 the former was not considered as a cooperating producer and the request for exemption was not taken into account in this investigation.
- (33) By Regulation (EC) No 909/2003, the Commission amended the initiating Regulation in order to cease registration of imports of malleable fittings by the Argentinian company found not to be circumventing the anti-dumping duties, namely DEMA SA.
- (34) In accordance with the above findings that the company was found not to have circumvented the anti-dumping measures in force, the company should also be exempted from the extension of the measures envisaged.

D. MEASURES

- (35) In view of the above finding of circumvention within the meaning of Article 13(1), second sentence of the basic Regulation, the existing anti-dumping measures on malleable fittings originating in Brazil should be extended to the same product consigned from Argentina, whether declared as originating in Argentina or not, pursuant to Article 13(1), first sentence, of the basic Regulation, with the exception of products manufactured by the cooperating producer DEMA SA.
- (36) In accordance with Article 14(5) of the basic Regulation, which provides that any extended measures should apply against registered imports from the date of registration, the anti-dumping duty on imports of malleable fittings consigned from Argentina which entered the Community under registration imposed by the initiating Regulation, with the exception of those malleable fittings produced by DEMA SA, should be collected.
- (37) The non-extension of the duties to the imports of the malleable fittings exported by DEMA SA was established on the basis of the findings of the present investigation. This non-extension is thus exclusively applicable to imports of malleable fittings consigned from Argentina and produced by this specific legal entity. Imported malleable fittings produced or consigned by any other company not specifically mentioned in the operative part of this Regulation with its name and address including entities related to those specifically mentioned, cannot benefit from the exemption and should be subject the same duty rate as imposed by Regulation (EC) No 1784/2000.

- (38) Any claim requesting the application of an exemption from the extension of the duties will have to be addressed to the Commission with all relevant information, in particular any modification in the company's activities linked to production and export sales.
- (39) Argentinian exporters requesting an exemption pursuant to Article 13(4) of the basic Regulation will normally be required to complete a questionnaire in order to enable the Commission to determine whether an exemption may be warranted and the Commission would normally also carry out an on-the-spot verification visit.
- (40) Where exemption would be considered appropriate, the Commission will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from the exception.

E. PROCEDURE

- (41) Interested parties were informed of the essential facts and considerations on the basis of which the Commission intended to propose the extension of the definitive anti-dumping duty in force and were given the opportunity to comment. No objections were received,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty imposed by Regulation (EC) No 1784/2000 on imports of threaded malleable cast iron tube or pipe fittings falling within CN code ex 7307 19 10, originating in Brazil, is hereby extended to imports of the same threaded malleable cast iron tube or pipe fittings consigned from Argentina (whether declared as originating in Argentina or not) (TARIC codes 7307 19 10 *11 and 7307 19 10 *19 respectively), with the exception of those produced by DEMA SA, Av. Pte. Perón 3750, San Justo, Buenos Aires, Argentina (TARIC additional code A438).

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

Done at Luxembourg, 13 June 2003.

2. The duty extended by paragraph 1 of this Article shall be collected on imports registered in accordance with Article 2 of Regulation (EC) No 1693/2002 and Articles 13(3) and 14(5) of Regulation (EC) No 384/96, with the exception of those produced by DEMA SA, Av. Pte. Perón 3750, San Justo, Buenos Aires, Argentina.

3. The provisions in force concerning customs duties shall apply.

Article 2

1. Requests for exemption from the duty extended by Article 1 shall be made in writing in one of the official languages of the Community and must be signed by a person authorised to represent the applicant. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate B
Office: J-79 05/17
B-1049 Brussels
Fax (32 2) 295 65 05
Telex COMEU B 21877.

2. The Commission, after consulting the Advisory Committee, may authorise by decision, the exemption of imports which are shown not to circumvent the anti-dumping duty imposed by Regulation (EC) No 1784/2000 from the duty extended by Article 1 of the present Regulation.

Article 3

Customs authorities are hereby directed to discontinue the registration of imports, established in accordance with Article 2 of Regulation (EC) No 1693/2002.

Article 4

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

For the Council

The President

G. PAPANDREOU

COMMISSION REGULATION (EC) No 1024/2003
of 16 June 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 17 June 2003.

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

Done at Brussels, 16 June 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 16 June 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	74,9
	096	52,4
	999	63,7
0707 00 05	052	104,6
	628	143,3
	999	124,0
0709 90 70	052	80,3
	999	80,3
0805 50 10	382	44,5
	388	57,1
	528	62,5
	999	54,7
0808 10 20, 0808 10 50, 0808 10 90	388	82,8
	400	103,5
	508	82,8
	512	80,3
	524	63,7
	528	66,4
	720	111,2
	800	224,9
	804	92,5
	999	100,9
0809 10 00	052	221,4
	999	221,4
0809 20 95	052	341,0
	064	261,1
	068	156,6
	094	238,7
	400	278,1
	999	255,1
0809 30 10, 0809 30 90	052	115,0
	999	115,0
0809 40 05	052	134,1
	999	134,1

⁽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 1025/2003
of 16 June 2003**

**fixing the minimum selling prices for beef put up for sale under the fourth invitation to tender
referred to in Regulation (EC) No 596/2003**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Commission Regulation (EC) No 2345/2001 ⁽²⁾, and in particular Article 28(2) thereof,

Whereas:

- (1) Tenders have been invited for certain quantities of beef fixed by Commission Regulation (EC) No 596/2003 ⁽³⁾.
- (2) Pursuant to Article 9 of Commission Regulation (EEC) No 2173/79 of 4 October 1979 on detailed rules of application for the disposal of beef bought in by intervention agencies and repealing Regulation (EEC) No 216/69 ⁽⁴⁾, as last amended by Regulation (EC) No 2417/95 ⁽⁵⁾, the minimum selling prices for meat put up for sale by tender should be fixed, taking into account tenders submitted.

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

HAS ADOPTED THIS REGULATION:

Article 1

The minimum selling prices for beef for the fourth invitation to tender held in accordance with Regulation (EC) No 596/2003 for which the time limit for the submission of tenders was 10 June 2003 are as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 June 2003.

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

Done at Brussels, 16 June 2003.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 315, 1.12.2001, p. 29.

⁽³⁾ OJ L 85, 2.4.2003, p. 3.

⁽⁴⁾ OJ L 251, 5.10.1979, p. 12.

⁽⁵⁾ OJ L 248, 14.10.1995, p. 39.

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

Estado miembro	Productos	Precio mínimo Expresado en euros por tonelada
Medlemsstat	Produkter	Mindstepriser i EUR/t
Mitgliedstaat	Erzeugnisse	Mindestpreise Ausgedrückt in EUR/Tonne
Κράτος μέλος	Προϊόντα	Ελάχιστες πωλήσεις εκφραζόμενες σε ευρώ ανά τόνο
Member State	Products	Minimum prices Expressed in EUR per tonne
État membre	Produits	Prix minimaux Exprimés en euros par tonne
Stato membro	Prodotti	Prezzi minimi Espressi in euro per tonnellata
Lidstaat	Producten	Minimumprijzen Uitgedrukt in euro per ton
Estado-Membro	Produtos	Preço mínimo Expresso em euros por tonelada
Jäsenvaltio	Tuotteet	Vähimmäishinnat euroina tonnia kohden ilmaistuna
Medlemsstat	Produkter	Minimipriser i euro per ton

a) **Carne con hueso — Kød, ikke udbenet — Fleisch mit Knochen — Κρέατα με κόκαλα — Bone-in beef — Viande avec os — Carni non disossate — Vlees met been — Carne com osso — Luullinen naudanliha — Kött med ben**

DANMARK	— Forfjerdinger	—
DEUTSCHLAND	— Hinterviertel	—
	— Vorderviertel	701
ESPAÑA	— Cuartos traseros	1 366
	— Cuartos delanteros	702
FRANCE	— Quartiers arrière	—
	— Quartiers avant	—
ITALIA	— Quarti anteriori	—
ÖSTERREICH	— Vorderviertel	—

b) **Carne deshuesada — Udbenet kød — Fleisch ohne Knochen — Κρέατα χωρίς κόκαλα — Bonelss beef — Viande désossée — Carni senza osso — Vlees zonder been — Carne desossada — Luuton naudanliha — Benfritt kött**

DEUTSCHLAND	— Hinterhese (INT 11)	—
	— Kugel (INT 12)	2 002
	— Oberschale (INT 13)	—
	— Unterschale (INT 14)	2 440
	— Hüfte (INT 16)	—
	— Roastbeef (INT 17)	—
	— Lappen (INT 18)	—
	— Hochrippe (INT 19)	—
	— Vorderviertel (INT 24)	—
ESPAÑA	— Lomo de intervención (INT 17)	—
	— Paleta de intervención (INT 22)	—
	— Pecho de intervención (INT 23)	—
	— Cuarto delantero de intervención (INT 24)	—

FRANCE	— Tranche grasse d'intervention (INT 12)	—
	— Tranche d'intervention (INT 13)	—
	— Semelle d'intervention (INT 14)	2 310
	— Rumsteck d'intervention (INT 16)	—
	— Faux-filet d'intervention (INT 17)	—
	— Flanchet d'intervention (INT 18)	—
	— Épaule d'intervention (INT 22)	—
	— Poitrine d'intervention (INT 23)	—
	— Avant d'intervention (INT 24)	—
	IRELAND	— Intervention shoulder (INT 22)
— Intervention forequarter (INT 24)		—
ITALIA	— Girello d'intervento (INT 14)	—
	— Filetto d'intervento (INT 15)	—
	— Scamone (INT 16)	—
	— Roastbeef d'intervento (INT 17)	—
NEDERLAND	— Interventieschouder (INT 22)	—
	— Interventieborst (INT 23)	—

**COMMISSION REGULATION (EC) No 1026/2003
of 16 June 2003**

**fixing the minimum selling prices for beef put up for sale under the fourth invitation to tender
referred to in Regulation (EC) No 598/2003**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Commission Regulation (EC) No 2345/2001 ⁽²⁾, and in particular Article 28(2) thereof,

Whereas:

- (1) Tenders have been invited for certain quantities of beef fixed by Commission Regulation (EC) No 598/2003 ⁽³⁾.
- (2) Pursuant to Article 9 of Commission Regulation (EEC) No 2173/79 of 4 October 1979 on detailed rules of application for the disposal of beef bought in by intervention agencies and repealing Regulation (EEC) No 216/69 ⁽⁴⁾, as last amended by Regulation (EC) No 2417/95 ⁽⁵⁾, the minimum selling prices for meat put up for sale by tender should be fixed, taking into account tenders submitted.

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

HAS ADOPTED THIS REGULATION:

Article 1

The minimum selling prices for beef for the fourth invitation to tender held in accordance with Regulation (EC) No 598/2003 for which the time limit for the submission of tenders was 10 June 2003 are as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 June 2003.

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

Done at Brussels, 16 June 2003.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 315, 1.12.2001, p. 29.

⁽³⁾ OJ L 29, 5.2.2003, p. 14.

⁽⁴⁾ OJ L 251, 5.10.1979, p. 12.

⁽⁵⁾ OJ L 248, 14.10.1995, p. 39.

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

Estado miembro	Productos	Precio mínimo Expresado en euros por tonelada
Medlemsstat	Produkter	Mindstepriser i EUR/t
Mitgliedstaat	Erzeugnisse	Mindestpreise Ausgedrückt in EUR/Tonne
Κράτος μέλος	Προϊόντα	Ελάχιστες πωλήσεις εκφραζόμενες σε ευρώ ανά τόνο
Member State	Products	Minimum prices Expressed in EUR per tonne
État membre	Produits	Prix minimaux Exprimés en euros par tonne
Stato membro	Prodotti	Prezzi minimi Espressi in euro per tonnellata
Lidstaat	Producten	Minimumprijzen Uitgedrukt in euro per ton
Estado-Membro	Produtos	Preço mínimo Expresso em euros por tonelada
Jäsenvaltio	Tuotteet	Vähimmäishinnat euroina tonnia kohden ilmaistuna
Medlemsstat	Produkter	Minimipriser i euro per ton

**Carne con hueso — Kød, ikke udbenet — Fleisch mit Knochen — Κρέατα με κόκαλα — Bone-in beef — Viande
avec os — Carni non disossate — Vlees met been — Carne com osso — Luullinen naudanliha — Kött med ben**

DEUTSCHLAND	— Hinterviertel	—
	— Vorderviertel	551
ESPAÑA	— Cuartos traseros	—
	— Cuartos delanteros	551
FRANCE	— Quartiers arrière	—
	— Quartiers avant	551
NEDERLAND	— Achtervoeten	—
	— Voorvoeten	551
ÖSTERREICH	— Hinterviertel	—
	— Vorderviertel	551

COMMISSION REGULATION (EC) No 1027/2003
of 16 June 2003

granting no award with regard to beef put up for sale under the fourth invitation to tender referred to in Regulation (EC) No 604/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Commission Regulation (EC) No 2345/2001 ⁽²⁾, and in particular Article 28(2) thereof,

Whereas:

- (1) Tenders have been invited for certain quantities of beef fixed by Commission Regulation (EC) No 604/2003 of 2 April 2003 on periodical sales by tender of beef held by certain intervention agencies and intended for processing within the Community ⁽³⁾.
- (2) Pursuant to Article 9 of Commission Regulation (EEC) No 2173/79 of 4 October 1979 on detailed rules of application for the disposal of beef bought in by intervention agencies and repealing Regulation (EEC) No 216/69 ⁽⁴⁾, as last amended by Regulation (EC) No 2417/95 ⁽⁵⁾, the minimum selling prices for meat put up for

sale by tender should be fixed, taking into account tenders submitted. Pursuant to Article 3(2) of Regulation (EC) No 604/2003, a decision may be taken not to proceed with the tendering procedure.

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

HAS ADOPTED THIS REGULATION:

Article 1

No award is made against the fourth invitation to tender held in accordance with Regulation (EC) No 604/2003 for which the time limit for the submission of tenders was 10 June 2003.

Article 2

This Regulation shall enter into force on 17 June 2003.

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

Done at Brussels, 16 June 2003.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 315, 1.12.2001, p. 29.

⁽³⁾ OJ L 86, 3.4.2003, p. 7.

⁽⁴⁾ OJ L 251, 5.10.1979, p. 12.

⁽⁵⁾ OJ L 248, 14.10.1995, p. 39.

COMMISSION REGULATION (EC) No 1028/2003**of 16 June 2003****concerning Regulation (EC) No 788/2003 laying down detailed rules for the application of Council Decision 2003/299/EC as regards the concessions in the form of Community tariff quotas on certain cereal products originating in the Slovak Republic and amending Regulation (EC) No 2809/2000**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 9 thereof,

Whereas:

- (1) Commission Regulation (EC) No 788/2003 which establishes certain concessions in the form of Community tariff quotas for certain agricultural products originating in the Slovak Republic ⁽³⁾, as amended by Regulation (EC) No 970/2003 ⁽⁴⁾, specifies the quantities of maize originating in the Slovak Republic which enjoy preferential access.
- (2) The Commission must fix a single coefficient for reducing the quantities in the import licences applied for where these quantities exceed the quantities in the

annual quota. Applications for import licences submitted on 9 and 10 June 2003 for maize from the Slovak Republic relate to 6 000 tonnes and the maximum quantity which may be imported is 990 tonnes exempt from duty,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for licences for the Slovak Republic quota provided for in Regulation (EC) No 788/2003 exempt from import duty for maize falling within CN codes 1005 10 90 and 1005 90 00 submitted on 9 and 10 June 2003 and forwarded to the Commission, shall be accepted for the tonnages indicated therein multiplied by a coefficient of 0,165.

Article 2

This Regulation shall enter into force on 17 June 2003.

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

Done at Brussels, 16 June 2003.

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

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 115, 9.5.2003, p. 25.

⁽⁴⁾ OJ L 139, 6.6.2003, p. 25.

**COMMISSION REGULATION (EC) No 1029/2003
of 16 June 2003**

amending Annexes I and II to Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2377/90 of 26 June 1990 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin ⁽¹⁾, as last amended by Commission Regulation (EC) No 739/2003 ⁽²⁾, and in particular Articles 6, 7 and 8 thereof,

Whereas:

- (1) In accordance with Regulation (EEC) No 2377/90, maximum residue limits must be established progressively for all pharmacologically active substances which are used within the Community in veterinary medicinal products intended for administration to food-producing animals.
- (2) Maximum residue limits should be established only after the examination within the Committee for Veterinary Medicinal Products of all the relevant information concerning the safety of residues of the substance concerned for the consumer of foodstuffs of animal origin and the impact of residues on the industrial processing of foodstuffs.
- (3) In establishing maximum residue limits for residues of veterinary medicinal products in foodstuffs of animal origin, it is necessary to specify the animal species in which residues may be present, the levels which may be present in each of the relevant meat tissues obtained from the treated animal (target tissue) and the nature of the residue which is relevant for the monitoring of residues (marker residue).
- (4) For the control of residues, as provided for in appropriate Community legislation, maximum residue limits should usually be established for the target tissues of liver or kidney. However, the liver and kidney are

frequently removed from carcasses moving in international trade, and maximum residue limits should therefore also always be established for muscle or fat tissues.

- (5) In the case of veterinary medicinal products intended for use in laying birds, lactating animals or honey bees, maximum residue limits must also be established for eggs, milk or honey.
- (6) Cypermethrin should be inserted into Annex I to Regulation (EEC) No 2377/90.
- (7) Acetylsalicylic acid, Acetylsalicylic acid DL-lysine, Carbasalate calcium and Sodium acetylsalicylate should be inserted into Annex II to Regulation (EEC) No 2377/90.
- (8) An adequate period should be allowed before the entry into force of this Regulation in order to allow Member States to make any adjustment which may be necessary to the authorisations to place the veterinary medicinal products concerned on the market which have been granted in accordance with Directive 2001/82/EC of the European Parliament and of the Council ⁽³⁾ to take account of the provisions of this Regulation.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Veterinary Medicinal Products,

HAS ADOPTED THE FOLLOWING REGULATION:

Article 1

Annexes I and II to Regulation (EEC) No 2377/90 are hereby amended as set out in the Annex hereto.

Article 2

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

It shall apply from the 60th day following its publication.

⁽¹⁾ OJ L 224, 18.8.1990, p. 1.

⁽²⁾ OJ L 106, 29.4.2003, p. 9.

⁽³⁾ OJ L 311, 28.11.2001, p. 1.

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

Done at Brussels, 16 June 2003.

For the Commission
Erkki LIIKANEN
Member of the Commission

ANNEX

A. Annex I to Regulation (EEC) No 2377/90 is amended as follows:

2. Antiparasitic agents
- 2.2. Agents acting against ectoparasites
- 2.2.3. Pyrethroids

Pharmacologically active substance(s)	Marker residue	Animal species	MRLs	Target tissues
'Cypermethrin	Cypermethrin (sum of isomers)	Salmonidae	50 µg/kg	Muscle and skin in natural proportions'

B. Annex II to Regulation (EEC) No 2377/90 is amended as follows:

2. Organic compounds

Pharmacologically active substance(s)	Animal species
'Acetylsalicylic acid	All food producing species except fish ⁽¹⁾
Acetylsalicylic acid DL-lysine	All food producing species except fish ⁽²⁾
Carbasalate calcium	All food producing species except fish ⁽³⁾
Sodium acetylsalicylate	All food producing species except fish ⁽⁴⁾

⁽¹⁾ Not for use in animals from which milk or eggs are produced for human consumption.

⁽²⁾ Not for use in animals from which milk or eggs are produced for human consumption.

⁽³⁾ Not for use in animals from which milk or eggs are produced for human consumption.

⁽⁴⁾ Not for use in animals from which milk or eggs are produced for human consumption.'

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 21 January 2003

on the aid scheme 'Stamp duty exemption for non-residential properties in disadvantaged areas' notified by the United Kingdom

(notified under document number C(2003) 41)

(Only the English text is authentic)

(Text with EEA relevance)

(2003/433/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽¹⁾ and after taking those comments into account,

Whereas:

I. PROCEDURE

- (1) By letter dated 21 December 2001, and registered by the Commission on 9 January 2002, the United Kingdom authorities notified a scheme proposing to exempt transfers of non-residential property in disadvantaged areas from stamp duty.
- (2) By letter of 27 February 2002, the Commission informed the United Kingdom authorities of its decision to initiate the procedure of Article 88(2) in relation to the stamp duty exemption scheme.
- (3) The decision to open the procedure was published in the *Official Journal of the European Communities* on 27 April 2002. The Commission invited interested parties to submit their comments on the aid scheme ⁽²⁾.
- (4) By letter of 9 April 2002, the United Kingdom authorities requested the Commission an extension of the deadline to submit comments. The Commission granted the extension, and the official response from the authorities was sent on 6 May 2002, registered by the Commission one day later. A second letter providing supplementary information was sent to the Commission on 13 November 2002, registered by the Commission on 27 November 2002. A final letter was sent on 26 November 2002, registered by the Commission on 2 December 2002.
- (5) In addition, several meetings took place between the United Kingdom authorities and the Commission on the following dates: 1 August 2002, 10 September 2002, 25 September 2002, 15 October 2002 and 11 November 2002.

⁽¹⁾ OJ C 102, 27.4.2002, p. 22.

⁽²⁾ See footnote 1.

- (6) The Commission received comments from two parties: the Royal Institute of Chartered Surveyors by letter of 27 May 2002 and the British Property Federation by letter of 24 May 2002. The United Kingdom authorities commented on these letters on 26 July 2002.

II. DESCRIPTION OF THE AID

- (7) The aim of the measure is to contribute to the physical, economic and social regeneration of designated disadvantaged areas by way of reducing the cost of acquiring non-residential property in these areas. The scheme is part of the United Kingdom government's 'Enterprise in disadvantaged communities' initiative.
- (8) The proposed aid takes the form of an exemption from stamp duty obligations, namely taxes levied on documents relating to sales and leases of land and buildings and transfers of shares. Stamp duty is a transaction tax imposed on the purchaser or leaser of land or property.
- (9) The eligible cost comprises the consideration (the purchase price) of the property (the land and/or buildings) situated in the qualifying area, or the average annual rental for a new lease. Apportionment is required if the property is only partially situated in a qualifying area. Stamp duties vary according to the purchase price of the property and, in the case of leases, according to the average annual rental and the duration of the lease. The rate of the stamp duty and hence the proposed exemption is between 1 % and 4 % of the purchase price in the case of a purchase of a property and between 1 % and 24 % of the average annual rent in the case of a new lease ⁽³⁾.
- (10) The stamp duty exemption would apply to sales and new leases of non-residential properties located in designated disadvantaged areas in the United Kingdom. The eligible areas, which have an average population of 7 000, are selected on the basis of the most recent indices of multiple deprivation (IMD) developed for each of the four regions of the United Kingdom. These indices are based on income, employment, health deprivation and disability, education skills and training, housing and geographical access to services. In England, Wales and Northern Ireland the geographical units used are the electoral wards or divisions and in Scotland, the postcodes. 2 000 disadvantaged areas have been designated in the United Kingdom, covering 22 % of the total population in England, 18 % in Scotland, 47 % in Wales and 40 % in Northern Ireland. The present list of eligible areas has been set out in 'The Stamp Duty (Disadvantaged Areas) Regulations 2001'. The United Kingdom authorities have indicated that qualifying areas (not more than 2 000) will be kept under review, although changes to the list are likely to be infrequent.
- (11) The United Kingdom authorities have estimated that the average proportion of hardcore brownfield (meaning vacant and/or derelict) land in the targeted areas is 2½ times that of other areas.
- (12) The scheme applies to undertakings of any size and any location and operating in any sector of the economy. The duration of the scheme would be 10 years.
- (13) The budget cost of the scheme is estimated at up to GBP 60 million (around EUR 94 million ⁽⁴⁾) per year.

III. OPENING OF PROCEDURE

- (14) In its letter of 27 February 2002, the Commission took the view that the notified scheme constituted State aid within the meaning of Article 87(1), since there were State resources involved, there was selectivity through its being targeted towards particular geographic areas, and since it might distort competition and affect trade at Community level.

⁽³⁾ The United Kingdom authorities have declared that, 'relative to the present value of the rent that would be paid over the life of the lease, the stamp duty on the rent will be less than 4 % and generally less than 1 %. Hence the effective rate of stamp duty (and thus the aid intensity) on leases overall, will also be less than 4 %.'

⁽⁴⁾ Exchange rate used: 1,5698 from 6.12.2002.

- (15) One of the reasons for opening the procedure was that the Commission had doubts whether the notified measure fulfilled the conditions of the Guidelines on National Regional Aid ⁽⁵⁾. The stamp duty exemption, according to the notification, would apply to transfers of non-residential property situated in so-called designated disadvantaged areas, which have been defined on the basis of different indicators and geographical units than these of the United Kingdom regional aid map approved by the Commission. ⁽⁶⁾ In addition, the Commission had doubts whether the transactions envisaged by the scheme would constitute initial investment within the meaning of Article 4.4 of the Guidelines on National Regional Aid ⁽⁷⁾.
- (16) Other doubts related to that part of point 4.5 of the Guidelines on National Regional Aid that provides that in the event of a purchase, assets for whose acquisition aid has already been granted prior to the purchase should be excluded. In the notified scheme, however, assets that are the subject of successive transactions are not excluded from the aid. In addition, since the scheme allows cumulation with other aid, the Commission had doubts whether the aid intensities laid down by the Guidelines on National Regional Aid would, at the end of the day, be observed. Finally, since the scheme would be applicable to all sectors, it was unclear how the authorities intended to comply with the rules applicable to certain sectors (including transport, steel, shipbuilding, synthetic fibres, motor vehicles, fisheries and coal), or those applicable to the products listed in Annex I to the Treaty, which are excluded from the scope of those Guidelines.
- (17) The Commission also had doubts whether the scheme was in conformity with the Deprived Urban Area Guidelines ⁽⁸⁾. Given the significant number of people living in targeted areas, the Commission wondered whether there was compliance with point 8 of those Guidelines, whereby the total population covered by such areas must not exceed 1 % of the national population. In addition, it was unclear to what extent the areas qualifying under the notified scheme that are outside the regional aid map complied with the other eligibility criteria laid down in point 7 of the Deprived Urban Area Guidelines. Under the Guidelines, only small and medium-sized enterprises (SMEs) could benefit from State aid. However, the proposed scheme did not seem to impose restrictions as to the size of firms.
- (18) The Commission further noted that there was no sectoral coverage of the notified scheme, which was not limited to SMEs, nor to firms in difficulty nor to any of the following activities: research and development, environmental protection, training, creation or maintenance of employment.

IV. COMMENTS FROM THE UNITED KINGDOM

- (19) According to the United Kingdom authorities, the scheme would encourage business establishment and property development in disadvantaged and thus poor areas of the United Kingdom by promoting their physical and economic regeneration.
- (20) In that regard, they argue that, for the purposes of regeneration, targeted State aid can effectively help to address market failures. Market failures are identified as those which prevent private enterprises from being engaged with deprived communities and which lead to sub-optimal market solutions; in particular, market failure can lead to dereliction and abandonment, lack of local services and community dislocation as residents commute to find work. Correcting market failures is, arguably, in accordance with the common interest.

⁽⁵⁾ OJ C 74, 10.3.1998, p. 9.

⁽⁶⁾ The United Kingdom Regional Aid Map for the period 2000-2006 was approved by the Commission by letter No SG (2000) D/106296 of 17 August 2000 (N 265/2000).

⁽⁷⁾ According to point 4.4 of the Guidelines, initial investment means 'an investment in fixed capital relating to the setting-up of a new establishment, the extension of an existing establishment, or the starting-up of an activity involving a fundamental change in the product or production process of an existing establishment (through rationalisation, diversification or modernisation).'

⁽⁸⁾ OJ C 146, 14.5.1997, p. 6.

According to the data provided in this regard, there are substantially fewer commercial property transactions in the targeted wards than in the rest of the United Kingdom. The rate of transactions for commercial property in the disadvantaged wards is around six times lower than the rate for wards in the rest of the United Kingdom. Low property transactions are claimed to be the symptom and the perpetuating cause of property market failures (by preventing efficient price formation in the market). The measure, by reducing the cost of transactions in the IMD areas, would address both the symptoms and the causes of market failure.

- (21) The areas needing regeneration are microspatial units. These areas are not necessarily those needing regional development. They therefore do not necessarily coincide with the regional map, and targeting entire regions would prove to be ineffective. The United Kingdom admits that neither the Guidelines on National Regional Aid nor the Deprived Urban Area Guidelines are suited for accommodating this kind of measure, which, however, is compatible with Article 87(3)(c) of the Treaty.
- (22) According to the United Kingdom authorities compatibility with Article 87(3)(c) can be proved since the 'aid to facilitate development of certain economic areas' can encompass aid targeted at microspatial units suffering from the market failure explained above.
- (23) As regards aid 'not adversely affecting trade conditions to an extent contrary to the common interest' this condition would also be met since the aid intensity is very low (maximum 4 % of the investment). In the light of this argument, the United Kingdom authorities also claim that the small aid intensity will not constitute an incentive for undertakings from other Member States to invest, and therefore there would be no significant effect on trade⁽⁹⁾. Notwithstanding this, the aid would be available to any company from anywhere in the Community or beyond, investing in commercial property in these areas. The non-discretionary way in which the aid is to be applied, the argument runs, also limits the effect on competition.
- (24) Even if the United Kingdom authorities acknowledge that the measure does not meet all the requirements of the Guidelines on National Regional Aid, they argue that there is an overlap between the 'disadvantaged areas' and the assisted areas under the United Kingdom regional map.
- (25) According to the data provided, in England 62 % of the deprived wards (out of the 15 % constituting the most deprived wards) would fall inside assisted areas⁽¹⁰⁾. In Scotland, the overlap with assisted areas would be of 80 %. In Wales, where 42 % of the wards are disadvantaged areas, the overlap is 88 %. Finally, the whole of Northern Ireland is an assisted area, so that all the wards in the country are within the regional aid map.
- (26) Even if the measure does not meet the criteria of the Deprived Urban Areas Guidelines either, the authorities say that there is an overlap. In the case of England, 22 % of the most deprived wards, as defined above, fall within the scope of the Deprived Urban Area Guidelines. The disadvantaged areas that are also within the definition of deprived urban areas account for nearly 6 % of England's population⁽¹¹⁾.
- (27) Cumulation with other aid is not excluded, but the United Kingdom authorities have pointed out the possibility of verifying that the overall aid intensity ceilings, and in particular the regional ones, are not breached.

⁽⁹⁾ They also ensure that companies benefiting from the stamp duty exemption will have to face, in return, the disadvantages of operating in a less favoured part of the United Kingdom so that the gain to them is likely to be small or non-existent in practice.

⁽¹⁰⁾ In the light of this data, they argue that more than 84 % of the most deprived wards in England fall within the Community definitions.

⁽¹¹⁾ In the light of this, they argue that there is a total (urban and regional) overlap of 20 % of the population in the case of England.

- (28) As a final argument, the authorities claim that the scheme is part of a global regeneration strategy undertaken in the whole of the United Kingdom. It is but one element in a package of measures that are being, or will be, adopted in order to regenerate the most deprived areas. Policy interventions are being developed in an important number of fields with a view to ensuring that no one is seriously disadvantaged by where they live. In this regard, the United Kingdom authorities have provided an overview of the measures introduced or about to be introduced to tackle deprivation⁽¹²⁾.
- (29) The United Kingdom authorities have, in the letter dated 26 November 2002, agreed to limit the scheme to a maximum of 2 000 areas.
- (30) The authorities, in their letter of 26 November 2002, have also committed themselves to improving their data collection methods so that in the future it will be possible to systematically analyse commercial property transaction data on a ward-by-ward basis. Furthermore, a comprehensive database of all vacant and/or derelict land will be established and the updates will be sent to the Commission as part of the annual report.

V. COMMENTS FROM THIRD PARTIES

- (31) In its decision to open the procedure, the Commission invited interested parties to submit comments. Two parties submitted their comments.
- (32) According to the Royal Institute of Chartered Surveyors, the aim of the measure is to revive the property market in areas where it has ceased to operate effectively. The Institute sought to explain the political rationale of the measure, namely the need to secure regeneration of the most deprived communities. The Institute seems to acknowledge that the measure is not in conformity either with the Guidelines on National Regional Aid or with the former Deprived Urban Areas Guidelines: '(both guidelines) are not designed to accommodate this sort of measure.' However, they add, 'if the United Kingdom stamp duty exemption scheme cannot be approved under the rules as presently drawn, the rules ought to be changed.' As a final point, the Institute claims that the measure will not affect trade to an extent contrary to the common interest and distortion of competition will be minimal. They also argue that the measure is aimed at tackling the existing market failure in the field, since the private sector is failing to engage in some areas of the United Kingdom.
- (33) The British Property Federation argued that the areas needing regeneration are to be regarded as suffering from market failure and that in a regeneration context, intervention can enhance the working of the market. In addition, given the small scale of the measure, it is unlikely that it will affect competition to an extent contrary to the common interest.

VI. ASSESSMENT OF THE AID

State aid character of the measure

- (34) The Commission considers that the measure constitutes State aid within the meaning of Article 87(1) of the EC Treaty for the following reasons:
- (a) State resources are involved in the form of a tax exemption;
- (b) even if the measure applies to companies of every size, operating in any sector of the economy, there is selectivity since the measure is targeted upon particular geographical areas — areas designated by the IMD — and it favours certain undertakings, namely those investing in non-residential property in those designated areas. Therefore, the measure provides an advantage to such companies over other companies investing in the areas that do not receive the exemption;
- (c) the measure covers all sectors, and *a fortiori* sectors where there is intra-Community trade. According to the case law 'where a Member State grants aid to an undertaking, domestic production may thereby be maintained or increased with the result that undertakings established in other Member States have significantly less chance of exporting their products to the market in that Member State'⁽¹³⁾;

⁽¹²⁾ These measures are in the field of employment and income, health, education and skills, access to services, crime, housing and physical regeneration.

⁽¹³⁾ Case C-303/88 *Italy v. Commission* (1991) ECR I-1433, paragraph 27.

- (d) the Commission considers that the amount of aid is small, since it is limited to a maximum of 4 % of the transaction. The estimated taxation relief is GBP 60 million per annum (around EUR 94 million ⁽¹⁴⁾). Divided by the estimated numbers of annual transactions, 1 200, the average aid per transaction would be GBP 50 000 (around EUR 78 500). However, this aid may still affect intra-Community trade and distort competition. According to case law, 'where the benefit granted by a public authority to an undertaking is small, competition is distorted to a lesser extent, but it is still distorted' ⁽¹⁵⁾.

It should be underlined that neither the United Kingdom authorities nor the third parties that have submitted their comments have contested the State aid character of the measure. The United Kingdom has chosen not to limit the scheme to the field of Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid ⁽¹⁶⁾. Should a beneficiary of the aid be engaged in several property transactions, it is not impossible that he may receive more aid than allowed under that Regulation.

Legality of the measure

- (35) By notifying the aid scheme as a draft and not putting it into effect until authorised by the Commission, the United Kingdom authorities have complied with the procedural requirements of Article 88(3) of the Treaty on the European Community.

Exemption grounds

- (36) (a) Article 87(2) of the EC Treaty provides that certain types of aid are compatible with the common market. In view of the nature and purpose of the aid, as well as the geographical coverage, the Commission considers that subparagraphs (a), (b) and (c) are not applicable to the scheme in question, nor have the United Kingdom authorities argued that this may be the case;
- (b) Article 87(3) specifies other forms of aid which may be regarded as compatible with the common market. In view of the nature and purpose of the measure and its geographical scope, the Commission considers that subparagraphs (a), (b) and (d) of Article 87(3) are not applicable either. The United Kingdom authorities endorse this view.
- (37) In assessing whether the exemptions provided for in Article 87(3)(c) can apply, the Court has consistently held that Article 87(3) 'gives the Commission a discretion the exercise of which involves economic and social assessments that must be made in a Community context.' ⁽¹⁷⁾ For certain types of aid, the Commission has defined how it will exercise these discretionary powers, be it in the form of block exemptions or by frameworks, guidelines or notices. Where such secondary texts exist, the Commission must follow them in its assessment of cases of aid. The Commission should therefore firstly establish whether the type of aid provided under the Stamp Duty Exemption Scheme falls under one of these texts. Concerning compatibility with the following guidelines, frameworks or regulations, as was previously mentioned at the opening of the procedure, the measure is not limited to SMEs ⁽¹⁸⁾ or to firms in difficulty ⁽¹⁹⁾, nor to any of the following activities: research and development ⁽²⁰⁾, training aid ⁽²¹⁾ or employment ⁽²²⁾. Therefore, none of these guidelines, frameworks or regulations can be applicable to the present case. The Community Guidelines on State aid for environmental protection ⁽²³⁾ is not applicable either, because the scheme, as such, is not designed for environmental protection. However, it cannot be excluded that the present scheme may have a positive environmental impact as far as rehabilitation of polluted brownfield sites is concerned.

⁽¹⁴⁾ See footnote 4.

⁽¹⁵⁾ Case T-55/99 *Confederación Española de Transporte de Mercancías (CETM) v. Commission* (2000) ECR II-3207, paragraph 92.

⁽¹⁶⁾ OJ L 10, 13.1.2001, p. 30.

⁽¹⁷⁾ Case C-169/95 *Kingdom of Spain v. Commission* (1997) ECR I-135. See also C-730/79 *Philip Morris v. Commission* (1980) ECR I-2671.

⁽¹⁸⁾ Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises, OJ L 10, 13.1.2001, p. 33.

⁽¹⁹⁾ Community Guidelines on State aid for rescuing and restructuring firms in difficulty, OJ C 288, 9.10.1999, p. 2.

⁽²⁰⁾ Community Framework for State aid for research and development, OJ C 45, 17.2.1996, p. 5.

⁽²¹⁾ Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid, OJ L 10, 13.1.2001, p. 20.

⁽²²⁾ Guidelines on aid to employment, OJ C 334, 12.12.1995, p. 4.

⁽²³⁾ Community Guidelines on State aid for environmental protection, OJ C 37, 3.2.2001, p. 3.

Compatibility with the Regional Aid Guidelines

- (38) The regions envisaged under the Guidelines on National Regional Aid are undoubtedly different from those envisaged in the Stamp Duty Exemption Scheme.
- (39) The Guidelines on National Regional Aid are designated for particular regions. The notion of 'region' in these guidelines covers areas conforming to NUTS level III ⁽²⁴⁾ or, in justified circumstances, to a different homogeneous geographical unit. Furthermore, the individual regions, or groups of contiguous regions, must form compact zones, each of which must have a population of at least 100 000. The Commission notes in this context that the Regional Aid Map for the United Kingdom ⁽²⁵⁾ is not based on NUTS III areas, but on the concept of 'job opportunity zones' each of which has a population in excess of 100 000.
- (40) In contrast, the areas targeted by the Stamp Duty Exemption are isolated, microspatial areas, either wards (NUTS V) or postal code areas, with an average population of 7 000.
- (41) The United Kingdom authorities agree that the Guidelines on national regional aid do not apply to Stamp Duty Exemption, even though many of the selected disadvantaged wards do form part of the regional aid map.

Compatibility with the Deprived Urban Area Guidelines

- (42) At the opening of the procedure, the Commission took the view that the proposed scheme did not meet the conditions of the Deprived Urban Area Guidelines ⁽²⁶⁾, applicable at that time. Those Guidelines, which did focus on microspatial areas, provided that, for aid to be approved, *inter alia*, the total population covered by the deprived areas should not exceed 1 % of the total population and that the only beneficiaries should be SMEs. As was stated in point 10, the amount of population covered by the present scheme far exceeds 1 %. This point has not been contested by the United Kingdom authorities, which agree that the former Deprived Urban Area Guidelines do not accommodate this kind of measure. It should in any event be noted that, after the opening of the procedure, the Deprived Urban Areas Guidelines expired and the Commission issued a notice to that effect ⁽²⁷⁾.
- (43) In the light of what has been said above, the Commission concludes that the proposed scheme does not fall within the scope and field of application of the existing guidelines, frameworks or regulations developed on the basis of Article 87(3)(c). The Stamp Duty Scheme is focused on areas deprived areas, for which there are, at present, no guidelines or frameworks.
- (44) The Commission notice on the expiry of the guidelines on State aid for undertakings in deprived urban areas provides that the guidelines were so restrictive that they could not effectively be used ⁽²⁸⁾. However, following the Commission notice, failure to extend the guidelines does not imply that State aid for deprived areas is no longer possible and, depending on the specific circumstances of the proposed aid in question, it may be approved directly upon the basis of Article 87(3)(c). Accordingly, the Commission will examine such cases in the light of Community objectives ⁽²⁹⁾.

⁽²⁴⁾ Nomenclature of Statistical Territorial Units

⁽²⁵⁾ By letter SG (2000) D/106293 of 17 August 2000, the Commission approved the regional aid map for the period 2000-2006 (N265/2000).

⁽²⁶⁾ See footnote 8: the Guidelines expired five years after publication.

⁽²⁷⁾ The Commission notice on the expiry of the Guidelines for undertakings in deprived urban areas was published in OJ C 119, 22.5.2002, p. 21.

⁽²⁸⁾ An OECD report provides that one of the obstacles to promoting the development of brownfield sites is the inflexibility of policy and legislation. See OECD report, 'Urban Brownfields', 1998, DT/UA (98)8.

⁽²⁹⁾ Points 3 and 6 of the Commission notice on the expiry of the Guidelines for undertakings in deprived urban areas.

Compatibility with Article 87(3)(c) of the EC Treaty

- (45) The Commission considers it appropriate to analyse therefore, first, whether the present scheme falls within the Community's objectives and, secondly, whether trading conditions are adversely affected to an extent contrary to the common interest.

The scheme in the light of Community objectives

- (46) It is to be recalled that economic and social cohesion is a Community objective, pursuant to Articles 2 and 3 of the EC Treaty. Strengthening economic and social cohesion implies, in particular, the reduction of disparities between levels of development of different areas.
- (47) In this regard, both the Stockholm and the Barcelona conclusions of the European Council have called for a reduction in overall aid levels and for the reorientation of aid towards objectives of common interest, including economic and social cohesion objectives⁽³⁰⁾.
- (48) Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds⁽³¹⁾ provides that Community initiatives in the field of social cohesion should encompass '...economic and social regeneration of cities and of urban neighbourhoods in crisis with a view to promoting a sustainable urban development'. The Commission's Urban initiative, developed on the basis of that Regulation, aims at promoting physical and economic regeneration of cities and neighbourhoods presenting structural problems. Although this initiative is focused upon urban areas, the Commission has highlighted the merits of an integrated approach in order to favour the synergy of urban and rural development⁽³²⁾. It can be inferred from the above that the Community objective of achieving social and economic cohesion in the single market encompasses initiatives in the field of both rural and urban regeneration.
- (49) As to these target areas of regeneration, the Commission, in a Communication of 14 June 2002 giving an initial assessment of the Urban Initiative⁽³³⁾, has recently acknowledged the existence of such problem areas and recently defined them as 'small areas of severe deprivation'. The Commission has stated that, 'the multifaceted nature of urban deprivation necessitates an integrated approach...and this is facilitated by the small sizes of the areas'⁽³⁴⁾. In rural areas, similar considerations apply, as exemplified by initiatives such as Leader + which 'is intended for small rural territories, which form an homogenous unit in physical (geographical) economic and social terms'⁽³⁵⁾. In the light of these statements, the Commission considers that other areas can, when necessary, be targeted for regeneration purposes.
- (50) The Commission notes that, in the present scheme, the areas targeted are small areas (microspatial units) of severe deprivation. They have been selected on the basis of the indices of multiple deprivation (IMD) which are based on elements such as low income, long-term unemployment, health deprivation and disability, low level of education and of training, poor housing and geographical access to services. These indicators have strong similarities to the indices adopted by the Commission in its Urban II program in order to identify target areas. These areas, according to the Communication on the Urban Initiative, must comply with at least three of the following criteria: a high

⁽³⁰⁾ The declarations of these European Councils are gathered in the Communication from the Commission to the Council entitled, 'Progress report concerning the reduction and reorientation of State aid', Brussels 16 October 2002, COM(2002) 555 final. In addition, the Commission has maintained that a harmonious development of Community territory takes place against a background of greater economic integration: 'this is the case for the interventions of the Structural Funds, notably through their assistance to urban development in an integrated regional approach and to rural development in its double role of contributing to the European agricultural model and to economic and social cohesion.' See Commission Communication concerning the Structural Funds and their coordination with the Cohesion Fund — Guidelines for programmes in the period 2000 to 2006, OJ C 267, 22.9.1999, p. 2.

⁽³¹⁾ OJ L 161, 26.6.1999, p. 1 (amended by Regulation (EC) No 1447/2001 (OJ L 198, 21.7.2001, p. 1)).

⁽³²⁾ Part 3 entitled 'Urban and rural development and their contribution to balanced territorial development', of the Commission Communication concerning Structural Funds and their coordination with the Cohesion Fund: see footnote 30.

⁽³³⁾ See the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions, 'The programming of the structural funds 2000-2006: an initial assessment of the Urban Initiative', Brussels, 14 June 2002, COM (2002) 308 final. In addition, in its conclusions the Commission has held that the approach developed under Urban and other Community initiatives have many potential lessons for the future of European policy, including 'a focus on relatively small areas which maximises impact, as well as value for money' (see page 6).

⁽³⁴⁾ Communication of 14 June 2002, page 7.

⁽³⁵⁾ Commission notice to the Member States of 14 April 2000 'laying down guidelines for the Community initiative for rural development (Leader+)', OJ C 139, 18.5.2000, p. 5 (point 14.1 on the areas concerned).

level of long-term unemployment; a low level of economic activity; a high level of poverty and exclusion; a specific need for conversion due to local economic and social difficulties; a high number of immigrants, ethnic and minority groups, or refugees; a low level of education, significant skills deficiencies and high drop-out rates from school; a high level of criminality and deficiency; precarious demographic trends or a particularly run-down environment ⁽³⁶⁾.

- (51) As was mentioned in the description of the proposed scheme (point 10), the average proportion of 'hardcore' brownfield sites in the targeted areas are two and a half times that of other areas. It is widely acknowledged that urban and rural decline and the loss of functions as a result of decline in traditional industrial sectors have left sites derelict and contaminated. The Commission notes that there is data showing that the United Kingdom is the Member State with the second-highest estimated number of sites requiring remediation ⁽³⁷⁾. By their very nature, the sites for which remediation is required are usually those posing the greatest environmental danger ⁽³⁸⁾. The Expert Group on the European Environment advising the Commission has also highlighted the environmental threat that brownfield sites may cause, especially if they are contaminated ⁽³⁹⁾.
- (52) Brownfield sites have been described by the OECD as, 'that which is, or is likely to be, contaminated as a result of former industrial commercial or governmental operations' ⁽⁴⁰⁾.
- (53) At the Community level, rehabilitation of brownfield sites is in conformity with both environmental policies and regional objectives. This is reflected in documents such as the communication on the Urban programme, which aims, *inter alia*, at redeveloping mixed use and environmentally friendly brownfield sites ⁽⁴¹⁾. By the same token, the Commission Communication concerning Structural Funds and their coordination with the Cohesion Fund provides: 'Priority should be given to the rehabilitation of derelict industrial sites (brownfields) over the development of greenfield sites' ⁽⁴²⁾. The Commission, in a decision of 25 July 2001 concerning a regeneration scheme, acknowledged that, 'the scheme would promote environmental concerns, notably a more rational use of natural resources such as land' ⁽⁴³⁾. The Community interest in brownfield sites has also been recognised by third-party organisations. In its report on urban brownfields, the OECD has acknowledged that the Community is concerned with regeneration and that it plays a particularly important role in relation to the regeneration of brownfield sites, even if, so far '(it has been) more concentrated towards assistance and redevelopment projects and funding and not remediation *per se*' ⁽⁴⁴⁾.
- (54) When the proposed scheme promotes rehabilitation of polluted industrial sites, the aid granted could be in line with the provisions of the Community Guidelines on State aid for environmental protection ⁽⁴⁵⁾. The Commission finds that, in these cases, it is possible that the aid will be an incentive for the cleaning-up of polluted sites.
- (55) One of the characteristics of the deprivation of the target sites — and in particular brownfield sites — is that there are six times fewer property transactions in these areas than in the remainder of the United Kingdom. Regeneration sites seem invariably to be in areas where the local land and property market has either collapsed or operates at a very low level.

⁽³⁶⁾ See point 2.1 of the Communication.

⁽³⁷⁾ See the Fourth KfK/TNO Symposium on Remediation of Contaminated Sites, Berlin 1993. In accordance with these data, United Kingdom has an estimated number of contaminated sites of 100 000 and 30 000 sites requiring remediation. The highest was Germany due to the specific regeneration problems prevailing in the new *Länder*.

⁽³⁸⁾ See OECD document *in supra*, note 28.

⁽³⁹⁾ See Expert Group on the European Environment: Towards a More Sustainable Urban Land Use: Advice for the European Commission for Policy and Action, 2001.

⁽⁴⁰⁾ See the OECD report, 'Urban brownfields', 1998. Other definitions are: 'any land or premises that have been previously used or developed and is not currently fully in use, although it may be partially occupied or utilised. It may also be vacant, derelict or contaminated. Therefore, a brownfield site is not necessarily available for immediate use without intervention.' More generally, brownfield has been defined as 'a land and/or buildings, urban or rural that have previously been developed, but are not currently in use. It can also be partially occupied, contaminated or derelict'. See Journal of Environmental Planning and Management. V43 (1), pp 49 to 69: January 2000.

⁽⁴¹⁾ This encompasses, *inter alia*, measures in the field of reclamation of derelict sites and contaminated land as well as renovation of buildings to accommodate economic and social activities in a sustainable and environmentally friendly manner.

⁽⁴²⁾ Under heading C: 'Areas with particular potential: environment, tourism and culture, social economy'.

⁽⁴³⁾ State aid N 82/2001 – English Cities Fund: OJ C 263, 19.9.2001, p. 5, at p. 11.

⁽⁴⁴⁾ See page 21 of the OECD document entitled 'Urban regeneration' (1998).

⁽⁴⁵⁾ Point E.1.8: 'Rehabilitation of polluted industrial sites'.

- (56) As a regeneration instrument, the stamp duty exemption could fulfil the economic rationale of contributing to reducing risks for investors in brownfield sites. Regeneration has traditionally been perceived as a high-risk, low-return investment, in particular because there is the perception of weak market demand; bureaucratic grant arrangements; unclear procedures in the programmes; and a lack of funding initiatives. Favourable conditions for investment include a perceived total return as well as new business opportunities, transparent exit strategies and the level of risk in the project ⁽⁴⁶⁾.
- (57) It is only when the risk is reduced that investment will increase: this would have several spin-off effects such as reducing the exit-costs, which in turn will further reduce the risks of investing in urban regeneration. The temporary exemption of the stamp duty is likely to contribute to activating the market for regeneration and derelict land in deprived areas as well as having spill-over effects. The system itself would be transparent and easy to administer, which matches market demands.
- (58) Recent studies demonstrate that, based on past experience, it is extremely unlikely that private-sector involvement in remediation can be expected if there is no public-sector role. This same experience shows that pump-priming brownfield site projects with public funds does stimulate private sector investment ⁽⁴⁷⁾. At the Commission level, this has been acknowledged by the Commission notice on the expiry of the Guidelines on State aid for undertakings in deprived urban areas ⁽⁴⁸⁾.
- (59) The Commission endorses the view that to optimise regeneration projects, the public sector role should support measures that are part of an integrated approach tackling the different aspects of severe deprivation. Commission initiatives ⁽⁴⁹⁾ have highlighted that '(regeneration) involves a package of operations that combine the rehabilitation of obsolete infrastructure with economic and labour-market actions complemented by measures to combat social exclusion and to upgrade the quality of the environment' ⁽⁵⁰⁾. The declared objective of the Urban initiative is 'to tackle the problem of urban deprivation in a holistic way' ⁽⁵¹⁾. The need for a holistic approach in the treatment of regeneration and more particularly, urban brownfields, is consistent with the efforts to promote sustainable development following the United Nations 1992 Rio de Janeiro summit and its 1996 Istanbul summit, and accords with the implementation of Agenda XXI on Sustainable Development ⁽⁵²⁾. This holistic approach is also based on the assumption that environmental and regeneration policies are deeply intertwined.
- (60) The Commission notes that the 'Stamp Duty Exemption for Disadvantaged Areas' is conceived as a part of a global strategy tackling deprivation from different angles and on different fronts — including environmental and social-exclusion objectives. In this regard, the Commission notes that the exemption scheme is part of a wider, coherent programme aimed at regenerating deprived areas. The United Kingdom authorities have therefore adopted a holistic approach.

⁽⁴⁶⁾ Accessing private finance: the availability and effectiveness of private finance in urban regeneration, Royal Institution of Chartered Surveyors, 2002.

⁽⁴⁷⁾ See in particular the OECD report entitled 'Urban Regeneration', 1998.

⁽⁴⁸⁾ See point 6 of the notice: 'The Commission recognises that, in some instances, market forces alone appear to be inadequate to resolve or alleviate the social and economic problems of deprived areas' (see footnote 27). This was also pointed out by the former Deprived Urban Area Guidelines in point 1.

⁽⁴⁹⁾ By the same token, the European Parliament in its resolution Urban II, 'stresses the need for an integrated approach to urban policy as currently this looks to be the only way to address economic, social and environmental problems in urban zones.' A particular concern of the Parliament was that, 'immigrants, refugees and ethnic minorities are often particularly affected by social exclusion.' See OJ C 339, 29.11.2000, p. 47.

⁽⁵⁰⁾ Communication from the Commission to the Member States of 28 April 2000 laying down guidelines for a Community initiative concerning economic and social regeneration of cities and of neighbourhoods in crisis in order to promote sustainable urban development (URBAN II): OJ C 141, 19.5.2000, p. 8.

⁽⁵¹⁾ See footnote 50. Emphasis added.

⁽⁵²⁾ See the OECD document entitled 'Urban Brownfields', 1998.

Affect on trade to an extent contrary to the common interest

- (61) The Commission notes that the standard bases for regional aid in the United Kingdom, following the Regional Guidelines are 10 % for land and 20 % for buildings ⁽⁵³⁾, that is to say, a maximum aid level of 30 %. The intensity of aid that could be granted under the proposed scheme is between 1 % and 4 %. If related to the standard basis, the aid would only represent between 0,3 % and 1,2 % of the entire investment. In the light of this comparison, trade and competition would only be distorted to a small extent.
- (62) The average amount of aid to the individual undertakings in the proposed scheme is GBP 50 000 (around EUR 78 500 ⁽⁵⁴⁾). Aid of this magnitude does not normally distort or threaten to distort competition. In cases where a beneficiary receives the stamp duty exemption several times, or receives it cumulated with other kinds of aid, the aid could be significant and thus affect competition and/or affect trade. It is therefore imperative that the cumulation of aid is closely monitored and controlled.
- (63) The Commission finally notes that the parties that have submitted their comments following the opening of procedure have claimed that the distortion of competition and the adverse effect on trade may not be to an extent contrary to the common interest.

VII. CONCLUSIONS

- (64) In the analysis conducted above it is found that no framework, guidelines or regulations apply to the scheme proposed; therefore, the Commission has considered it appropriate to examine it directly on the basis of Article 87(3)(c). It can be concluded that the proposed scheme would fall within the Community objectives of economic cohesion and sustainable development, and that the scheme would not adversely affect trading conditions to an extent contrary to the common interest.
- (65) Because the scheme falls outside the usual frameworks, guidelines and regulations, the Commission considers it appropriate to impose a number of conditions: cumulation with other investment aid above the ceilings applying to normal investment aid must be excluded; monitoring must be ensured; annual reports must be submitted; the beneficial effects of the scheme on physical regeneration — and notably on brownfield sites — have to be demonstrated. The duration of the scheme should be limited to the end of 2006, as after that year new rules will apply to both State aid and structural funds,

HAS ADOPTED THIS DECISION:

Article 1

The aid scheme called 'Stamp Duty Exemption for Disadvantaged Areas' is compatible with the common market pursuant to Article 87(3)(c) of the EC Treaty, provided that the conditions set out in Article 2 are met.

Article 2

1. The United Kingdom shall ensure that any cumulation of aid awarded under the scheme with investment aid awarded under other aid schemes does not exceed the aid ceilings laid down in the regional aid map for the United Kingdom for 2000 to 2006 and in Regulation (EC) No 70/2001.

⁽⁵³⁾ OJ C 74, 10.3.1998, p. 6.

⁽⁵⁴⁾ See footnote 4.

2. The scheme shall be limited in time until 31 December 2006.

Any continuation of the scheme after that date shall be notified to the Commission pursuant to Article 88(3) of the Treaty.

3. The United Kingdom shall submit annual reports on the operation of the scheme to the Commission.

The degree of detail of the reports shall be such as to allow an evaluation of the effects of the scheme on the physical regeneration of the areas which benefit from it.

Article 3

The United Kingdom shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with it.

Article 4

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 21 January 2003.

For the Commission
Mario MONTI
Member of the Commission

COMMISSION DECISION

of 16 June 2003

suspending the extended anti-dumping duty imposed by Council Regulation (EC) No 1023/2003 on imports of certain malleable cast iron tube or pipe fittings consigned from Argentina, whether declared as originating in Argentina or not*(notified under document number C(2003) 1693)*

(2003/434/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 1972/2002 ⁽²⁾, and in particular Article 14(4) thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) By Regulation (EC) No 1784/2000 ⁽³⁾ (the definitive Regulation), the Council imposed an anti-dumping duty of 34,8 % on imports of threaded malleable cast iron tube or pipe fittings (malleable fittings) originating in Brazil, and falling under the CN code ex 7307 19 10 (TARIC code 7307 19 10 11).
- (2) On 12 August 2002, the Commission received a request, pursuant to Article 13(3) of Regulation (EC) No 384/96 (the basic Regulation), from the Defence Committee of the Malleable Cast Iron Pipe Fittings Industry of the European Union. The request alleged the existence of circumvention of the anti-dumping duties imposed by the definitive Regulation on imports of malleable fittings originating in Brazil. According to the request, the circumvention practice consisted of transshipment of malleable fittings originating in Brazil via Argentina to the Community. This request was submitted on behalf of producers representing a major proportion of the Community production of malleable fittings and contained sufficient evidence regarding the factors set out in Article 13(1) of the basic Regulation. The Commission initiated an investigation into the alleged circumvention by Regulation (EC) No 1693/2002 ⁽⁴⁾ (the initiating Regulation), as amended by Regulation (EC) No 909/2003 ⁽⁵⁾.
- (3) By Regulation (EC) No 1023/2003 ⁽⁶⁾, the Council extended the definitive anti-dumping duty imposed by definitive Regulation on imports of malleable fittings falling within CN code ex 7307 19 10 (TARIC code

7307 19 10 10), originating in Brazil, to imports of the same threaded fittings consigned from Argentina (whether declared as originating in Argentina or not) (TARIC codes 7307 19 10 11 and 7307 19 10 19), with the exception of those produced by DEMA SA, San Justo, Buenos Aires, Argentina (TARIC additional code A438).

B. GROUNDS

- (4) Article 14(4) of the basic Regulation provides for the possibility of suspension of anti-dumping measures in the Community interest on the grounds that market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of such a suspension. Article 14(4) further specifies that the anti-dumping measures concerned may be reinstated at any time if the reason for suspension is no longer applicable.
- (5) The investigation concluded by Regulation (EC) No 1023/2003 that measures on malleable fittings originating in Brazil were circumvented by exports consigned from Argentina. However, it also concluded that exports from Argentina to the Community significantly decreased during the investigation period (July 2001 — June 2002) and that they totally stopped after the end of this investigation period. These findings are based both on Eurostat and statistical information obtained from the Argentinian authorities.
- (6) The cessation of exports consigned from Argentina took place before the initiation of the Commission anti-circumvention investigation in September 2002, and therefore cannot be attributed to that fact. Instead, it appears that the decline and subsequent elimination of the circumventing flow of exports from Argentina was due to remedial actions undertaken by the Argentinian authorities, themselves prior to the initiation of the Community anti-circumvention investigation. Indeed, on 5 October 2001, the Argentinian authorities initiated an anti-dumping proceeding on exports of Brazilian malleable fittings to Argentina and, in February 2002, an anti-fraud investigation was initiated by the Argentinian customs concerning imports of the same product from Brazil.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 305, 7.11.2002, p. 1.

⁽³⁾ OJ L 208, 18.8.2000, p. 8.

⁽⁴⁾ OJ L 258, 26.9.2002, p. 27.

⁽⁵⁾ OJ L 128, 24.5.2003, p. 7.

⁽⁶⁾ See page 1 of this Official Journal.

- (7) The anti-dumping investigation initiated by the Argentinian authorities resulted in the imposition of provisional anti-dumping measures in August 2002. These anti-dumping measures are in the form of a minimum price set at a level of USD 3,65/kg. The anti-fraud investigation concerned the alleged wrongful obtaining of subsidies for the Brazilian exporter from the Argentinian State via its sales office in Argentina. The initiation of this investigation resulted in fewer shipments from Brazil to Argentina.
- (8) Both the Argentinian provisional anti-dumping duties and the anti-fraud investigation have had a cumulative effect on the decline of imports from Brazil into Argentina and consequently the exports from Argentina into the Community as described in recital 5. However, the long term positive effect of these two Argentinian investigations can not be judged yet. In this regard, it should also be noted that the provisional anti-dumping duties on exports of malleable fittings from Brazil lapsed on 7 December 2002, before the formal conclusion of the investigation. Until May 2003, however definitive measures can still be imposed. Following the anti-fraud investigation, the Argentinian authorities are actively pursuing imports into Argentina especially when destined for re-exportation.
- (9) In the meantime, in the absence of exports, no further injury is caused and the effect of the investigations initiated by the Argentinian authorities is such that injury would be unlikely to resume as a result of the suspension. Under these circumstances it is considered to be in the Community interest to suspend the measures for the time being.
- (10) As stipulated in Article 14(4) of the Basic Regulation, the Community industry has been given an opportunity to comment on the above. The Community industry does not oppose a possible suspension of the measures.

C. CONCLUSION

- (11) In conclusion, the Commission considers that all requirements to suspend the anti-dumping duties concerned pursuant to Article 14(4) are met. Currently there are no exports of malleable fittings from Argentina to the Community. Injury linked to circumvention via Argentina is unlikely to resume as a result of the suspension

which would be in the interest of the Community. For these reasons the duties should be suspended for a period of nine months.

- (12) The Commission will continue to monitor the development of the imports of malleable fittings into the Community and the behaviour of individual exporters from Argentina. In particular, the Commission will closely monitor the outcome of the ongoing investigations carried out by the Argentinian authorities. Should a situation arise at any time in which a resumption of circumvention and consequently injury to the Community industry is likely, the Commission will reinstate the extended anti-dumping measures by repealing the suspension of the extended measures.
- (13) In accordance with the provisions of Article 14(4) of the basic Regulation the Commission has informed the Community industry of its intention to suspend the extended anti-dumping measures and has provided it with an opportunity to comment. The Community industry confirmed the findings of the Commission as concerns the present level of exports of malleable fittings from Argentina to the Community and did not oppose to a suspension of measures,

HAS ADOPTED THIS DECISION:

Article 1

The definitive anti-dumping duty extended by Article 1 of Regulation (EC) No 1023/2003 is hereby suspended for a period of nine months.

Article 2

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

Done at Brussels, 16 June 2003.

For the Commission

Pascal LAMY

Member of the Commission

COMMISSION DECISION**of 16 June 2003****repealing Decision 2002/182/EC approving the amended plan presented by Austria for the eradication of classical swine fever in feral pigs in Lower Austria***(notified under document number C(2003) 1833)***(Only the German text is authentic)****(Text with EEA relevance)**

(2003/435/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2001/89/EC of 23 October 2001 on Community measures for the control of classical swine fever ⁽¹⁾, and in particular the fifth subparagraph of Article 16(1) thereof,

Whereas:

- (1) In 2000 classical swine fever was confirmed in the feral pig population in the Province of Lower Austria.
- (2) By Commission Decision 2001/140/EC ⁽²⁾, the Commission approved the plan presented by Austria for the eradication of classical swine fever in the feral pig population in the Province of Lower Austria.
- (3) By Commission Decision 2002/182/EC ⁽³⁾, the Commission approved the amended plan presented by Austria for the eradication of classical swine fever in the feral pig population in the Province of Lower Austria and accordingly repealed Decision 2001/140/EC.
- (4) Austria has submitted information suggesting that classical swine fever in the feral pig population has been successfully eradicated in the Province of Lower Austria.

(5) It is therefore appropriate to repeal Decision 2002/182/EC.

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

HAS ADOPTED THIS DECISION:

Article 1

Decision 2002/182/EC is repealed.

Article 2

This Decision is addressed to the Republic of Austria.

Done at Brussels, 16 June 2003.

For the Commission

David BYRNE

Member of the Commission⁽¹⁾ OJ L 316, 1.12.2001, p. 5.⁽²⁾ OJ L 50, 21.2.2001, p. 22.⁽³⁾ OJ L 61, 2.3.2002, p. 55.

COMMISSION DECISION

of 16 June 2003

amending Decision 2002/975/EC on introducing vaccination to supplement the measures to control infections with low pathogenic avian influenza in Italy and on specific movement control measures*(notified under document number C(2003) 1834)***(Text with EEA relevance)**

(2003/436/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 2002/33/EC of the European Parliament and of the Council ⁽²⁾, and in particular Article 10(4) thereof,Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽³⁾, as last amended by Regulation (EC) No 806/2003 ⁽⁴⁾, and in particular Article 9(4) thereof,Having regard to Council Directive 92/40/EEC of 19 May 1992 introducing Community measures for the control of avian influenza ⁽⁵⁾, as last amended by Regulation (EC) No 806/2003, and in particular Article 16 thereof,

Whereas:

- (1) During 1999 and 2000 Italy has experienced outbreaks of highly pathogenic avian influenza of subtype H7N1 with devastating economic losses for the poultry industry. Prior to the epidemic a virus of low pathogenicity had been circulating in the area.
- (2) During monitoring for avian influenza the presence of low pathogenic avian influenza virus of subtype H7N3 was detected in the regions of Veneto and Lombardia in October 2002.
- (3) In order to control the spread of infection with low pathogenic avian influenza virus the Commission has approved a vaccination programme by Commission Decision 2002/975/EC ⁽⁶⁾.

- (4) The results of the vaccination programme reported at several meetings of the Standing Committees on the Food Chain and Animal Health are generally favourable in view of the control of the disease within the vaccination zone. However, the infection has spread to some areas adjacent to the established vaccination zone.
- (5) The vaccination zone should therefore be extended to cover areas at risk for the propagation of the virus while the stringent monitoring measures and trade restrictions are applied accordingly.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

In Decision 2002/975/EC Annex I shall be replaced by the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 16 June 2003.

For the Commission

David BYRNE

Member of the Commission⁽¹⁾ OJ L 224, 18.8.1990, p. 29.⁽²⁾ OJ L 315, 19.11.2002, p. 14.⁽³⁾ OJ L 395, 30.12.1989, p. 13.⁽⁴⁾ OJ L 122, 16.5.2003, p. 1.⁽⁵⁾ OJ L 167, 22.6.1992, p. 1.⁽⁶⁾ OJ L 337, 13.12.2002, p. 87.

ANNEX

'ANNEX I

VACCINATION ZONE

Veneto Region*Verona Province*

The vaccination zone comprises the territory of the following municipalities:

Albaredo d'Adige

Angiari

Arcole

Belfiore

Bevilacqua

Bonavigo

Boschi Sant'Anna

Bovolone

Bussolengo

Buttapietra

Calmiero area to the south of the A4 motorway

Casaleone

Castel d'Azzano

Castelnuovo del Garda area to the south of the A4 motorway

Cerea

Cologna Veneta

Colognola ai Colli area to the south of the A4 motorway

Concamarise

Erbè

Gazzo Veronese

Isola della Scala

Isola Rizza

Lavagno area to the south of the A4 motorway

Minerbe

Monteforte d'Alpone area to the south of the A4 motorway

Mozzecane

Nogara

Nogarole Rocca

Oppeano

Palù

Pescantina

Peschiera del Garda area to the south of the A4 motorway

Povegliano Veronese

Pressana

Ronco all'Adige

Roverchiara

Roveredo di Guà

S. Bonifacio area to the south of the A4 motorway

S. Giovanni Lupatoto area to the south of the A4 motorway

S. Martino Buon Albergo area to the south of the A4 motorway

S. Pietro di Morubio

Salizzole

Sanguinetto

Soave area to the south of the A4 motorway

Sommacampagna

Sona

Sorgà

Trevenzuolo

Valeggio sul Mincio

Verona area to the south of the A4 motorway

Veronella

Vigasio

Villafranca di Verona

Zevio

Zimella

Vicenza Province

The vaccination zone comprises the territory of the following municipalities:

Agugliaro

Albettono

Alonte

Asigliano Veneto

Barbarano Vicentino

Campiglia dei Berici

Castegnero

Lonigo

Montegalda

Montegaldella

Mossano

Nanto

Noventa Vicentina

Orgiano

Poiana Maggiore

S. Germano dei Berici

Sossano

Villaga

Padova Province

The vaccination zone comprises the territory of the following municipalities:

Carceri
Casale di Scodosia
Este
Lozzo Atestino
Megliadino S. Fidenzio

Megliadino S. Vitale
Montagnana
Ospedaletto Euganeo
Ponso
S. Margherita d'Adige
Saletto
Urbana

Lombardia Region*Mantova Province*

The vaccination zone comprises the territory of the following municipalities:

Acquanegra Sul Chiese
Asola
Bigarello
Canneto Sull'oglio
Casalmoro
Casaloldo
Casalromano
Castel D'ario
Castel Goffredo
Castelbelforte
Castiglione Delle Stiviere
Cavriana
Ceresara
Gazoldo Degli Ippoliti
Goito
Guidizzolo
Mariana Mantovana
Marmirolo
Medole
Monzambano
Piubega
Ponti Sul Mincio
Porto Mantovano
Redondesco
Rodigo
Roncoferraro
Roverbella
San Giorgio Di Mantova
Solferino
Villimpenta
Volta Mantovana

Azzano Mella
Bagnolo Mella
Barbariga
Bassano Bresciano
Berlingo
Borgo San Giacomo
Borgosatollo
Brandico
Brescia area to the south of the A4 motorway
Calcinato area to the south of the A4 motorway
Calvisano
Capriano del Colle
Carpendolo
Castegnato area to the south of the A4 motorway
Castel Mella
Castelcovati
Castenedolo area to the south of the A4 motorway
Castrezzato
Cazzago San Martino
Chiari
Cigole
Boccaglio
Cologne
Comezzano-Cizzago
Corzano
Dello
Desenzano del Garda area to the south of the A4 motorway
Erbusco area to the south of the A4 motorway
Fiesse
Flero
Gambara
Ghedi
Gottolengo
Isorella
Leno
Lograto
Lonato area to the south of the A4 motorway
Longhena

Brescia Province

The vaccination zone comprises the territory of the following municipalities:

Acquafredda
Alfianello

Maclodio	<i>Bergamo Province</i>
Mairano	The vaccination zone comprises the territory of the following municipalities:
Manerbio	Antegnate
Milzano	Bagnatica area to the south of the A4 motorway
Montichiari	Barbata
Montirone	Bariano
Offlaga	Bolgare area to the south of the A4 motorway
Orzinuovi	Calcinato
Orzivecchi	Calcio
Ospitaletto area to the south of the A4 motorway	Castelli Calepio area to the south of the A4 motorway
Palazzolo sull'Oglio area to the south of the A4 motorway	Cavernago
Pavone del Mella	Cividale al Piano
Pompiano	Cologno al Serio
Poncarale	Cortenuova
Pontevico	Costa di Mezzate area to the south of the A4 motorway
Pontoglio	Covo
Pozzolengo area to the south of the A4 motorway	Fara Olivana con Sola
Pralboino	Fontanella
Quinzano d'Oglio	Ghisalba
Remedello	Grumello del Monte area to the south of the A4 motorway
Rezzato area to the south of the A4 motorway	Isso
Roccafranca	Martinengo
Roncadelle area to the south of the A4 motorway	Morengo
Rovato area to the south of the A4 motorway	Mornico al Serio
Rudiano	Pagazzano
San Gervasio Bresciano	Palosco
San Paolo	Pumenengo
San Zeno Naviglio	Romano di Lombardia
Seniga	Seriata area to the south of the A4 motorway
Torbole Casaglia	Telgate area to the south of the A4 motorway
Travagliato	Torre Pallavicina
Trenzano	<i>Cremona Province</i>
Urago d'Oglio	The vaccination zone comprises the territory of the following municipalities:
Verolanuova	Camisano
Verolavecchia	Casale Cremasco-Vidolasco
Villachiera	Casaletto di Sopra
Visano	Castel Gabbiano
	Soncino'.
