ISSN 1725-2555

Official Journal of the European Union

L 320

English edition

Legislation

Volume 48

8 December 2005

Contents

(Continued overleaf)

EN

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

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

Contents (continued)

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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1987/2005

of 2 December 2005

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of granular polytetrafluoroethylene (PTFE) originating in Russia and the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,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] (the basic Regulation) and in particular Articles 9 and 10(2) thereof,

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

Whereas:

A. PROCEDURE

1. Provisional Measures

(1) By Regulation (EC) No 862/2005 [2], (provisional Regulation), the Commission imposed provisional anti-dumping duties on imports into the Community of granular polytetrafluoroethylene (PTFE) originating in Russia and the People's Republic of China (PRC).

2. Subsequent Procedure

(2) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping duties on imports of PTFE from Russia and the PRC, several interested parties submitted comments in writing. In accordance with the provision of Article 20(1) of the basic Regulation, all interested parties which requested a hearing were granted an opportunity to be heard by the Commission.

(3) The Commission continued to seek and verify all information deemed necessary for the definitive findings.

(4) An additional verification visit was carried out at the premises of the following companies:

— Heroflon (Italy), granular PTFE transformer,

— Fluorseals (Italy), granular PTFE processor.

(5) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty and the definitive collection of amounts secured by way of provisional duty. They were also granted a period within which they could make representations subsequent to this disclosure.

(6) The oral and written arguments submitted by the parties were considered, and, were deemed appropriate, taken into account for the definitive findings.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(7) The provisional Regulation described the product concerned as granular polytetrafluoroethylene (PTFE), containing not more than 3 % of other monomer unit than tetrafluoroethylene, without fillers, in the form of powder or pellets, with the exclusion of micronised material. The product concerned can also be presented as raw polymer (reactor bead) in wet or dry form. Further to comments received by interested parties, it is clarified that 'micronised material' means a fluoropolymer micropowder as defined by norm 'ASTM D5675-04'. The product concerned is currently classifiable within CN code ex 3904 61 00.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).
[2] OJ L 144, 8.6.2005, p. 11.

(8) One users'/importers' organisation (the European Fluoropolymer Fair Trade Association or EFFTA) and one exporters' association objected to the provisional conclusions that all granular PTFE constitute a single product. It was argued that granular PTFE can be divided into three product groups based on quality differences (high/medium/low). It was claimed that each product group would be used in different applications not competing with one another in the same market.

(9) Despite quality differences, all granular PTFE types were found to have the same basic physical, technical and chemical characteristics, which were neither contested by EFFTA nor by the exporters' association. As far as granular PTFE applications are concerned, it was found that granular PTFE of a lower quality could be used after post-treatment in almost all applications, including some high-end applications (e.g. billets for skiving). In general, as also admitted by EFFTA, there was an overlapping in applications for various types and qualities of granular PTFE and no clear dividing line could thus be established.

(10) It was therefore concluded that, notwithstanding the different possible product types due to different form, average particle size, thermo treatment or co-monomer content, and despite quality differences, all of them constituted one single product for the purpose of this proceeding because all types and qualities had the same physical characteristics and essentially the same basic end-uses. In recitals 13, 145 and 147 of the provisional Regulation it was erroneously mentioned that granular PTFE would also be contained in anoraks and in the inner shield of cables and that it is used in textile and biomedical applications as well as isolation agents. The definitive findings revealed that granular PTFE is not used in any of the aforementioned applications.

(11) Taking into account the abovementioned considerations, the product definition and the provisional findings set out in recital 14 of the provisional Regulation are hereby confirmed.

2. **Like product**

(12) A number of importers and users reiterated that the granular PTFE produced and sold in the Community market could not be likened to the products imported from the PRC and Russia. It was argued that the products imported from the countries subject of the present investigation, would be of a much lower quality than the product produced by the Community industry and would therefore be sold on different markets, thus not competing with each other. These parties did not, however, come forward with new information or evidence in this matter.

(13) It should first be noted that, as outlined in recital 16 of the provisional Regulation, the investigation has shown that the Community industry also produced and sold scrap or 'off-spec' material during the investigation period (IP) to the same customers as the exporting producers concerned. On the other hand, the investigation revealed that at least the Russian exporting producers sold a quality of granular PTFE to the Community, which was, even without post-treatment, comparable to the high quality Community grades, albeit in very limited quantities. Furthermore, even low quality granular PTFE imported from the countries concerned could, after post-treatment, be used in a similar range of applications as the product produced and sold in the Community market by the Community industry.

(14) Considering the above, it was concluded that the product concerned and the granular PTFE produced and sold in the Community by the Community industry share the same physical and technical characteristics and the same basic end-uses. They were therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

(15) In the absence of any other comments in this regard, the provisional conclusions set out in recital 15 of the provisional Regulation are hereby confirmed.

C. **DUMPING**

1. **People's Republic of China**

1.1. *Market economy treatment (MET)*

(16) Following the imposition of provisional measures, the three Chinese cooperating exporting producers claimed that they should have been granted MET and reiterated the arguments they had previously submitted. These comments were already addressed in recitals 33 to 39 of the provisional Regulation. Consequently, it was considered that the decision to reject MET to the three companies should be maintained.

1.2. *Individual treatment (IT)*

(17) Two exporting producers argued that they should be granted IT. One exporter submitted that the Commission was not entitled to reject IT on the basis of possible State interference, since Article 9(5) requires that only export prices and quantities are freely determined. In this respect, it should be noted that a company can, by definition, not be considered to freely determine its export prices and quantities and conditions and terms of sale, if the latter can be influenced by the State. Therefore, the conditions of Article 9(5)(b) of the basic Regulation cannot be considered to be met by companies that are not able to demonstrate that they are not subject to possible State interference. The exporting producer concerned has not provided any evidence showing that the State could neither influence its decisions with regard to export prices and quantities, and conditions and terms of sale, nor that possible State interference was not such as to permit circumvention of the measures. This is mainly due to the fact that, as outlined in recital 33 of the provisional Regulation, the relationship of this company to the State-owned shareholder was unclear and the Articles of Association were considered unreliable. Therefore, the fact that such State interference would allegedly not have occurred in the past, would, even if it were demonstrated, not offer any guarantee that it will not take place in future, in particular should an individual duty rate be attributed to this company.

(18) Another exporter argued that its shareholding structure, in particular the fact that it is partly State-owned, did not as such allow the conclusion that the State interfered in the setting of prices and other sales terms. First of all, the company did not substantiate its claim with any evidence. On the other hand, it was found that the State owned the majority of the company's capital and furthermore, nominated the General Manager and the majority of the Board of Directors of this company. Therefore, it was concluded that Article 9(5)(c) is not fulfilled and IT should therefore be rejected.

(19) In the absence of any other comments, the findings of the provisional Regulation, as set out in recital 45 of that Regulation, are hereby confirmed.

1.3. *Analogue country*

(20) All three Chinese cooperating exporting producers disagreed with the choice of the United States of America (USA) and claimed that Russia should have been chosen as the analogue country instead. Two of them reiterated the comments made before the imposition of provisional measures, which have already been addressed in recitals 47 to 54 of the provisional Regulation. In the absence of any new information and evidence, the claims of these exporting producers had to be rejected.

(21) Another Chinese exporting producer argued that, due to the lower economic development of the PRC, production factors, such as labour costs and overhead expenses, would be lower and therefore not comparable to the USA. Nevertheless, as mentioned in recital 54 of the provisional Regulation, the different level of overall economic development is, in itself, not a relevant factor when selecting an analogue country. This company also alleged that as a consequence of the lower economic development in China, public services such as water, power and gas supply would be less expensive than in the USA. In this regard, it must be noted that it is precisely the aim of Article 2(7)(a) of the basic Regulation that an analogue country is selected to determine the normal value on the basis of prices and costs, unbiased by non-market economy conditions. Thus, a simple comparison of prices in the non-market economy country or in the country with an economy in transition with those in the analogue country is as such not meaningful. In any event, no information was submitted which would have substantiated the alleged differences and allowed a quantification, or which would have demonstrated that this exporting producer benefited from any natural comparative advantage. The argument was therefore rejected. Finally, this exporting producer also claimed that, due to a simpler production process, the equipment, as well as the related investments and depreciation rates would be significantly different. However, the exporter did not submit any information showing that its production process was indeed simpler than that used by the USA producers or which would allow the Commission services to quantify the effect of such alleged differences.

(22) This exporter also argued that the USA and the Chinese granular PTFE have a different quality which would result in different applications and that the choice of the USA as analogue country was therefore not appropriate. In this regard it is noted that, as explained in recital 53 of the provisional Regulation, an adjustment was made for differences of quality, in particular contamination, the level of which the Chinese exporting producer did not contest. This argument was therefore also rejected.

(23) In the absence of any other comments, the findings set out in recitals 47 to 54 of the provisional Regulation regarding the choice of the USA as an appropriate analogue country are hereby confirmed.

1.4. *Determination of normal value for Chinese exporting producers not granted MET*

(24) One Chinese exporting producer argued that the adjustment for quality differences described in recital 53 of the provisional Regulation was insufficient and that normal value should have been adjusted to the same extent as the Community industry price when calculating undercutting and underselling margins, as explained in recital 98 of the same Regulation.

(25) It should be noted that while the adjustment to the normal value is designed to capture differences between the like product sold on the market of the analogue country and the product concerned, the adjustment made in the injury analysis takes into consideration differences between the latter and the like product sold in the Community. Although the like product sold in the analogue country and the one sold in the Community market may be of a similar quality and may have similar characteristics, differences in the product concerned are not necessarily identical. Consequently, the adjustments were made on their own merits and on the basis of the information and evidence collected during the investigation. The exporting producer did not submit any evidence showing that the methodology used by the Commission in its provisional determinations was unreasonable and that indeed, differences between the product concerned and the like product produced and sold in the Community on the one hand and in the analogue country on the other hand would be identical, nor was there any other information or evidence available suggesting that the adjustments should be identical. Consequently, the claim had to be rejected and the findings in recital 53 of the provisional Regulation as regards the determination of normal value for exporting producers not granted MET are hereby confirmed.

1.5. *Export price*

(26) In the absence of any comments by the interested parties, the methodology set out in recital 59 of the provisional Regulation is hereby confirmed.

1.6. *Comparison*

(27) One Chinese exporting producer argued that the adjustment for physical differences outlined in recital 62 of the provisional Regulation would not properly reflect the actual difference in production costs and the adjustment made should therefore be revised appropriately. It should be noted that the adjustment made for the determination of the provisional dumping margin was based on a reasonable estimate of the difference in market value in the USA, in accordance with Article 2(10)(a) of the basic Regulation. It was considered that this methodology was the most accurate in order to determine the effect of the difference in price and price comparability. The Chinese exporting producer did not quantify its claim, nor did it submit any information or evidence that the methodology set out by Article 2(10)(a) of the basic Regulation would not be adequate to take the physical difference into account. On this basis, the claim had to be rejected. In the absence of any other comments, the findings on comparison, as set out in recitals 60 to 64 of the provisional Regulation, are hereby confirmed.

2. **Russia**

2.1. *Application of the provisions of Article 18 of the basic Regulation*

(28) As mentioned in recitals 69 to 82 of the provisional Regulation, the determination of dumping at provisional stage was based on the facts available for both exporting producers investigated in Russia.

(29) Prior to the imposition of the provisional duties, the two Russian exporting producers were informed forthwith of the basis on which it was intended to apply facts available at the stage of the provisional determination and were given the opportunity to provide further explanations, in accordance with Article 18(4) of the basic Regulation.

(30) The two Russian exporting producers claimed that they cooperated to the best of their abilities and that the full application of facts available was therefore disproportionate. They argued that in accordance with Article 18(3) of the basic Regulation, the companies' own data, although not in all respects ideal, should have been used.

(31) In this respect, and as outlined in recitals 70 to 74 of the provisional Regulation, it is recalled first of all that both companies submitted incomplete, incorrect and misleading information. Moreover, one company refused to submit information for the calculation of the dumping margin or did not provide such information in a timely manner thus, it was no longer verifiable. Finally, a trader in Russia related to one of the exporting producers did not cooperate.

(32) Both companies already admitted the existence of deficiencies in their responses to the questionnaires, as well as during the on-the-spot verification, but alleged that these were not such as to cause undue difficulty in arriving at a reasonably accurate finding. It was claimed that the deficiencies would only have a minor impact on the findings and that the figures supplied by the companies would, overall, be sufficiently reliable to be used for the determination of dumping.

(33) A re-examination was made of all information submitted by the two companies in their responses to the questionnaire and during the on-the-spot verification, as well as of all the information submitted by the companies following the disclosure of the provisional findings. However, none of the companies' explanations submitted could alter the provisional conclusions. It is reiterated that the data provided by the companies in their questionnaire reply could not be reconciled with their audited accounts. This was considered a serious deficiency. Under these circumstances, a reliable individual dumping margin cannot be established and recourse has to be made to facts available.

(34) In this regard and as already mentioned in recital 72 of the provisional Regulation, it is recalled that one company provided significantly misleading information concerning its company structure which ultimately did not allow the reconciliation of the figures reported. The reply of this company was also significantly incomplete and of low quality. For the other company, while each deficiency taken separately may not have a major impact on the dumping calculations, the accumulation of such deficiencies casts serious doubts on the overall reliability of the data. Therefore, and for the reasons set out in recital 71 of the provisional Regulation, available facts had to be used in accordance with Article 18 of the basic Regulation. No new evidence was provided which could alter these findings.

(35) Due to the serious deficiencies outlined above and the impossibility of verifying the information submitted, it had to be concluded that data submitted were overall unreliable and inaccurate. Therefore, the questionnaire replies of both companies had to be rejected as a whole. Consequently, the findings of recitals 70 to 74 and the conclusion in recital 75 of the provisional Regulation, namely that the dumping margins for both exporting producers could not be established on the basis of their own data but had to be based on facts available in accordance with Article 18 of the basic Regulation, is hereby confirmed.

2.2. *Normal value*

(36) In the absence of any comments by the interested parties, the methodology set out in recital 76 of the provisional Regulation is hereby confirmed.

2.3. *Export price*

(37) Both companies claimed that the calculation of the export price was wrongly based on prices, as recorded by Eurostat, for imports falling under the CN code ex 3904 61 00, since apart from the product concerned this code also includes other products not subject to the present proceeding.

(38) In this regard, it should be noted that the large majority of imports under the abovementioned CN code falls under the product concerned. Nevertheless, in the provisional determinations, adjustments were made to the data recorded by Eurostat on the basis of information available (estimates of the Community industry). In the absence of any more reliable information available, this methodology was maintained for the determination of the definitive dumping margin.

(39) One company claimed that in order to establish its export price, the information of two unrelated importers accounting for more than 80 % of its sales to the Community during the investigation period should be used. However, one of these importers did not fully cooperate during the investigation. In addition, the data provided by the fully cooperating unrelated importer could not be linked with those provided by the exporting producer concerned. Therefore, the data provided did not allow a determination of the export price on that basis and the claim had to be rejected.

(40) In the absence of any other information, the methodology as outlined in recital 77 of the provisional Regulation was maintained and the export price was calculated on the basis of Eurostat data.

2.4. *Comparison*

(41) In the absence of any comments by the interested parties, the findings of recitals 78 and 79 of the provisional Regulation are hereby confirmed.

3. **Dumping margin**

(42) In the absence of any comments by the interested parties, the methodology for the calculation of the dumping margins as set out in recitals 24, 65 to 68 and 80 to 82 of the provisional Regulation are herewith confirmed. Considering the above, the definitive dumping margins, expressed as a percentage of the cif import price at the Community border, are:

Exporting country	Dumping margin
PRC	99,7 %
Russia	36,6 %

D. **INJURY**

1. **Community production, Community industry and Community consumption**

(43) In the absence of any comments in this particular respect, the findings in recitals 83 to 87 of the provisional Regulation are hereby confirmed.

2. **Cumulative assessment of the effects of the imports concerned**

(44) The two Russian exporting producers reiterated that for the purpose of assessing injury, imports of granular PTFE originating in Russia should be decumulated for the reasons set out in recital 91 of the provisional Regulation. To support their claim, the exporting producers argued that the decrease in the Community industry's profitability from 2002 onwards coincided with a decrease of imports originating in Russia, while in 2001, when imports from Russia were at their highest, the Community industry enjoyed high profit margins. In contrast, imports originating in the PRC increased in parallel to the Community industry's decline in profit margin. The exporter concluded that on this basis material injury could not have been caused by imports originating in Russia and that cumulation was therefore not warranted.

(45) It is noted that, as set out in recital 90 of the provisional Regulation, price trends from both Russia and the PRC, are similar. They have a decreasing trend throughout the entire IP and dropped each year by a significant percentage. Furthermore, both imports originating in Russia and those originating in the PRC undercut the Community industry's prices substantially throughout the period from 1 January 2001 to the end of the IP (period considered). In addition, it is noted that import trends from Russia, although decreasing in 2002, remained stable afterwards and even increased slightly during the IP. Finally, the definitive findings confirmed that imports of granular PTFE from the PRC and Russia were competing with each other on the Community market. Therefore, and in view of the arguments set out in recitals 89 to 92 of the provisional Regulation, there are no reasons to conclude that Russian imports should be decumulated. The abovementioned argument was consequently rejected.

(46) In the absence of any further comments in this particular respect, the findings in recitals 88 to 93 of the provisional Regulation are hereby confirmed.

3. **Imports from the countries concerned**

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

(47) In the absence of any comments in this particular respect, the findings in recitals 94 to 96 of the provisional Regulation are hereby confirmed.

3.2. *Price undercutting*

(48) One Chinese exporting producer expressed its concern with regard to the provisional determination of the post-importation costs when calculating the price of the Community industry. In particular, this exporter alleged that such cost would be higher than the one used in the provisional calculations, without however providing any supporting evidence in this regard. The determination of post-importation costs at provisional stage was based on actual data provided by the two cooperating importers. The reply of one of these importers was subject to verification. The information of the other importer, although not verified, was in line with the verified data of the first importer and was therefore considered sufficiently reliable. It is therefore considered that the data provided by the importers were more reliable than the estimates made by the Chinese exporting producers, which were furthermore not substantiated by any evidence. This claim had consequently to be rejected.

(49) One Chinese exporting producer pointed to a clerical error when calculating the adjustment for import duties. Accordingly, the adjustment for import duties for all Chinese exporting producers was corrected in accordance with the applicable duty rate during the IP.

(50) As announced in recital 98 of the provisional Regulation, it was examined whether the adjustment provisionally granted for quality differences between the like product sold by the Community industry and the product concerned imported from Russia and the PRC was appropriate.

(51) In this regard, the Community industry submitted that post-treatment would only be necessary for a limited number of the imported product types, i.e. the reactor bead. The Community industry further argued that in order to produce pre-sintered material, their products would also need further processing, and therefore no adjustment to the import price would be necessary. Finally, information was submitted regarding sales of high quality product types produced by the Russian exporting producers, which did not need any post-treatment.

(52) It was found that certain granular PTFE types produced by Russian exporting producers indeed reached higher quality standards and could thus be used without any further treatment. However, these product types were only sold in negligible quantities during the IP and mainly for testing purposes. Thus, on the basis of the information available from the cooperating users, imports of such higher quality granular PTFE from Russia constituted only 1,4 % of their total imports from that country.

(53) It was further found that all other imported granular PTFE grades needed post-treatment, which consisted mainly in heating and further milling. This process has to be distinguished from the processing needed for the production of pre-sintered PTFE, which is a specific process after post-treatment. Thus, the adjustment granted at provisional stage correctly reflects the demonstrated quality differences between the like product manufactured by the Community industry and the product concerned and does not concern the additional processing costs of granular PTFE required for the production of pre-sintered grades. The Community industry's arguments had therefore to be rejected.

(54) On the other hand, one Russian exporting producer and one importer of granular PTFE from Russia claimed that even after post-treatment the granular PTFE exported by this exporting producer would still be of a lower quality than the granular PTFE produced and sold by the Community industry on the Community market. The exporting producer added that the post-treatment would only balance quality differences with regard to the particle size and the impurity of the product, excluding, however, other key quality parameters, such as tensile strength and elongation, which would have a considerable impact on the intrinsic quality of the Russian granular PTFE and consequently on the quality of the semi-finished product. In order to substantiate this claim, the abovementioned importer submitted information on testing results which allegedly showed quality differences between granular PTFE produced by Community producers and post-treated granular PTFE imported from Russia. On this basis, it was claimed that the adjustment should exceed the mere cost of post-treatment.

(55) However, the investigation could not confirm these allegations. It was found that the information submitted by the importer concerning the testing results was not representative, but rather anecdotal, since it singled out only one production lot. Even within this lot, all tested granular PTFE fulfilled the required specifications in order to comply with the norm, despite variations in their technical specifications. Therefore, the evidence submitted was not considered conclusive. In any case, based on the information submitted by the abovementioned Russian exporting producer and the importer, the claimed quality difference could not be quantified. Therefore, it is confirmed that granular PTFE imported from this exporting producer after post-treatment was of a similar quality as the granular PTFE produced and sold by the Community industry on the Community market and could be used in a wide-range of similar applications.

(56) Given the above, the adjustment provisionally made when calculating the undercutting margin was found to be appropriate. However, the adjustment was corrected on the basis of the verified information of two users, which allowed a precise calculation of these costs. Thus, the adjustment amounted to 36,7 % of the purchase price of the users/importers concerned.

(57) Taken into consideration the abovementioned corrections and in the absence of any other comments, recitals 97 to 98 of the provisional Regulation are hereby confirmed.

(58) On the basis of the above, the comparison on a per-model basis showed that the product concerned originating in the PRC and Russia was sold in the Community at prices which undercut those of the Community industry by 20,5 and 13,5 % respectively during the IP, when expressed as a percentage of the Community industry's prices.

3.3. *Situation of the Community industry and conclusion on injury*

3.3.1. General remarks

(59) Certain interested parties pointed to the positive trends of certain injury factors and claimed that it would not be sufficient that other injury indicators such as sales prices and profitability showed negative trends to conclude that material injury had been suffered by the Community industry.

(60) It should first be noted that Article 3(5) of the basic Regulation provides that while the impact of dumped imports on the Community industry shall be examined on the basis of an evaluation of all relevant economic factors and indices, none of these factors on its own or together with others can necessarily give decisive guidance. It is therefore not required that all injury factors show a negative trend in order to conclude that the Community industry suffered material injury.

(61) On this basis, in order to determine whether the Community industry suffered material injury, it is important that its overall financial situation be considered. Thus, in case of the positive development of certain injury indicators, these should not be considered in isolation but in a broader context, i.e. together with the development of other injury indicators in order to make meaningful conclusions. In the present case and as outlined in recital 117 of the provisional Regulation, the positive trend of certain injury indicators has to be seen in the context of the overall significant negative effects of the imports under consideration on the performance of the Community industry and the latter's reaction to this. The overall negative picture of the Community industry's situation is in particular translated in a decline of its sales prices and profitability.

(62) It is therefore considered that the approach taken for the provisional determinations was reasonable and in line with the basic Regulation and is therefore maintained for the definitive findings.

3.3.2. Production, production capacity and capacity utilisation

(63) Some interested parties argued that the Community industry was able to increase its production capacity, volume and capacity utilisation, while consumption in the Community was decreasing, which would not point to an injurious situation of the Community industry.

(64) In fact, the decrease in consumption (by 12 %) was only felt in 2002, when the Community industry's production volume decreased in line by 13 %, which is also translated into a decrease in the capacity utilisation during the same year. As a consequence and as outlined in recital 102 of the provisional Regulation, the Community industry had to lower its sales prices, thereby increasing its sales volume in order to be able to compete with the dumped imports. Nevertheless, even the sales volume of the Community industry decreased slightly during 2002.

(65) Furthermore, the development of the production volume should also be seen in the more global context than solely in relation to the development of the Community consumption. Thus, as mentioned in recital 134 of the provisional Regulation, export sales of the Community industry were slightly increasing, which had also an impact on production figures. Furthermore, the increase in the production volume of granular PTFE is partly explained by the fact that some Community producers increased the internal use of granular PTFE for the production of, for example, compounds and micronised grades. Finally, the overall increase of production volume and production capacity during the period considered is also part of the Community industry's attempt to react to the dumped imports by trying to increase sales volume, albeit at the expense of sales prices and profitability.

(66) Therefore, the findings set out in recitals 101 and 102 of the provisional Regulation are hereby confirmed.

3.3.3. Sales volume and market share

(67) Likewise, some interested parties argued that the increase in sales volume and market share, in particular with a parallel decrease in demand, would clearly indicate that the Community industry did not suffer material injury. The Russian exporting producer also argued that such an increase in sales could not be explained by the Community industry's strategy to lower its sales prices when faced with low-priced imports. In this context, the development of the Community industry's sales volume was compared to that of the Russian imports which allegedly showed a downward trend despite decreasing import prices.

(68) However, it was found that the analysis of Russian import data showed a slightly different picture. Thus, although imports and market share from Russia declined from 2001 to 2002 significantly, they dropped only marginally between 2002 and 2003 and even increased slightly during the IP. In contrast, selling prices of the Russian imports showed a constant downward trend during the entire period considered. In parallel, Chinese import prices declined to a higher extent and sales volume and market shares of these imports increased significantly during the same period. This indicates that Russian exporters faced with the low-priced Chinese imports on the Community market were, as the Community industry, obliged to lower their import prices even further to regain their market share in the Community. Moreover, as imports from Russia and the PRC have been cumulated, it is more appropriate to carry out this analysis not separately for each exporting country concerned, but together. In this respect, it is recalled that the market share of the imports remained continuously very high and their prices dropped dramatically and significantly undercut those of the Community industry. Therefore, the argument of the Russian exporting producer had to be rejected.

(69) It is therefore reiterated that the development of the Community industry's sales volume and market share has to be seen in correlation with the parallel decrease in sales value and unit prices due to the dumped imports and the consequent significant negative impact on the Community industry's profitability. As mentioned in recital 61 of this Regulation, in order to reach a meaningful conclusion on the overall financial situation of the Community industry, the positive development of these indicators should not be considered in isolation but together with the development of the remaining injury indicators.

(70) In the absence of any other comments in this particular regard, the findings set out in recitals 103 and 104 of the provisional Regulation are hereby confirmed.

3.3.4. Stocks

(71) One Chinese and the two Russian exporting producers also argued that the stocks of the Community industry decreased significantly between 2003 and the IP, which would indicate that no material injury was suffered.

(72) It is noted that stock movements during the period considered were not significant and did not show a clear trend. Indeed, while stocks decreased by 13 % between 2001 and 2002, they increased by 23 percentage points between 2002 and 2003 and then decreased again by 17 percentage points in the IP. Moreover, it should also be noted that the decrease in stocks between 2003 and the IP only amounted to 216 tons which corresponds to 4,3 % of the sales volume of the Community industry in 2003 and 3,9 % during the IP.

(73) In any event, the Community industry produced granular PTFE mainly to order and products kept in stock are usually goods awaiting dispatch to customers. Therefore, the increase in stock in 2003 is rather due to a delay in delivery and cannot be seen as a meaningful injury indicator because it has no impact as such on the Community industry's financial situation. Therefore, in this case the development of stock was not considered as a meaningful injury indicator.

(74) Some interested parties also argued that the increase in stock in 2003, namely the year prior to the IP, caused injury to the Community industry because the Community industry would have been forced to sell this increased stock at lower prices during the IP. As already mentioned in recital 73, production was made to order and therefore, the increase in stock in 2003 is likely due to a delay in delivery, whereas customers and prices were already determined. In any case, the increase in stocks of 283 tons in 2003 cannot be considered as significant as it only represents 5,6 % of the sales volume of that year. It was therefore concluded that this increase in stock prior to the IP could not cause the material injury suffered by the Community industry.

(75) This claim had therefore to be rejected and the findings of recital 105 of the provisional Regulation are hereby confirmed.

3.3.5. Sales prices

(76) The same exporting producers argued that the negative trend in the Community's sales prices would not be a meaningful injury indicator since sales prices of granular PTFE have decreased globally as a consequence of market forces. One exporting producer also questioned the correctness of the calculations without, however, providing any further detail in how far the calculations would not be correct.

(77) As far as the calculation of the Community industry's sales prices is concerned, no error was detected in the provisional calculations which are therefore confirmed.

(78) It is reiterated that sales prices in the Community dropped significantly during the period considered which had a considerable impact on the Community industry's profitability. It is also confirmed that these were considered as key factors in the injury determination, due to their direct impact on the Community industry's financial situation. It is therefore confirmed that prices are a very meaningful injury indicator in this investigation and the exporting producer's claim in this respect had to be rejected.

(79) More specifically as far as the argument of the alleged global price decrease is concerned, no factors were found which would point, for example, to cost reductions underlying such price decrease. It is therefore confirmed that prices are a very meaningful injury indicator in this investigation and the exporting producer's claim in this respect had to be rejected in the context of the injury analysis. The remainder of this argument is more linked to the question of a causal link and will therefore be addressed below in recitals 106 and 107.

(80) In the absence of any other comment in this particular regard, the findings of recital 106 of the provisional Regulation are hereby confirmed.

3.3.6. Growth

(81) It was argued that the provisional determinations failed to explain the growth of the Community industry, in particular in comparison to the shrinking Community consumption for the period considered. Since the growth of the Community industry was determined by the development of its market share, reference is made to recital 103 of the provisional Regulation and to recitals 67 and 69 of this Regulation.

3.3.7. Investments and ability to raise capital

(82) One Chinese exporting producer objected to the provisional conclusions that the ability to raise capital was not a meaningful injury indicator.

(83) As outlined in recital 109 of the provisional Regulation, it was found that, since the Community producers are part of larger groups and therefore financed via intra-group cash pooling systems, the ability to raise capital was not a meaningful injury indicator, as it would normally not be affected, even if some producers of such larger groups are in a particularly injurious situation. The Chinese exporting producer did not explain in how far it did not agree to these conclusions, nor did it support its statement with any other explanations. The claim therefore had to be rejected and the findings of recitals 108 and 109 of the provisional Regulation are hereby confirmed.

3.3.8. Profitability, return on investments and cash flow

(84) Some exporting producers also observed that there has been an increase in the Community industry's profitability between 2003 and the IP, which would not have been considered in the provisional findings.

(85) This claim has to be rejected, given that the development of the Community industry's profitability over the entire period considered was analysed in the provisional Regulation. Thus, the increase in the profitability between 2003 and the IP could not reverse the conclusion of the overall significant decrease of profitability between 2001 and the IP, namely by 9,2 percentage points. The profitability during the IP was only slightly above break even, i.e. at 0,1 %, and would have been even lower should the Community industry have maintained its prices, in which case it would have suffered loss of market share and sales volume. It was therefore concluded that this injury factor showed a clear negative trend during the period considered.

(86) In the absence of any other comments in this particular regard, the findings of recitals 110 and 111 of the provisional Regulation are hereby confirmed.

3.3.9. Employment and productivity

(87) The Chinese as well as the two Russian exporting producers reiterated their arguments on the development of employment and productivity, suggesting that these factors would not point to material injury. In the absence of any new information in this regard, the provisional conclusions as set out in recital 112 of the provisional Regulation are maintained.

3.3.10. Increase in the Community industry's exports

(88) Finally, the abovementioned exporting producers argued that the Community industry's increasing export performance during the period considered would show that it did not suffer material injury.

(89) In this context, it should be clarified that recital 134 of the provisional Regulation erroneously indicated that the increase in exports was 3 % during the period considered. Correctly, exports of the Community industry increased by 54 %. However, as correctly indicated in the same recital of the provisional Regulation, these increased exports constituted only 12,7 % of the Community industry's total sales volume during the IP. Thus, it is confirmed that in absolute terms, the increase was not significant (namely roughly 250 tons). Therefore, although increasing, export sales still represented only a small part of the Community industry's total sales. On this basis, it was not considered as an indication that the Community industry was in good health.

3.3.11. Wages

(90) In the absence of any comment in this particular regard, the findings in recital 113 of the provisional Regulation are hereby confirmed.

3.3.12. Magnitude of the dumping margin

(91) In the absence of any comment in this particular regard, the findings in recital 114 of the provisional Regulation are hereby confirmed.

3.3.13. Recovery from past dumping

(92) In the absence of any comment in this particular regard, the findings in recital 116 of the provisional Regulation are hereby confirmed.

3.3.14. Conclusions on injury

(93) As far as the arguments of certain interested parties which were based on information submitted in the complaint are concerned, it should be noted that provisional findings were based on verified data of the Community producers during the IP.

(94) On this basis, despite the positive trend of some injury factors, it was concluded that the overall financial situation of the Community industry has significantly declined during the period considered and that it had suffered material injury during the IP.

(95) Therefore, the findings set out in recitals 101 to 120 of the provisional Regulation concerning the situation of the Community industry and the conclusion on injury are hereby confirmed.

E. CAUSATION

1. Effects on dumped imports

(96) In the absence of any comments in this particular respect, the findings in recitals 122 to 126 of the provisional Regulation are hereby confirmed.

2. Effects of other factors

2.1. *Development of consumption and demand*

(97) Some interested parties reiterated that the decline in consumption and demand on the Community market were price driving factors and have to be seen as the main cause for the decline of prices and profitability of the Community industry, rather than the dumped imports. These parties did not, however, provide any new information or evidence but simply repeated their claims made prior to the imposition of provisional duties. It was also argued that a comparison between the decrease in consumption and the decrease of the Community market value as in recital 127 of the provisional Regulation is irrelevant since sales prices do not only depend on the development of consumption and demand but also on supply.

(98) While it is not disputed that under normal competitive conditions prices are the result of supply and demand, it is recalled that in this case normal market conditions were distorted by uncompetitive behaviour, i.e. dumping practices. Thus, the investigation revealed significant dumping from all exporting producers during the IP and significant undercutting throughout the entire period considered, which caused high price pressure on the Community industry.

(99) As already highlighted in recital 129 of the provisional Regulation, import prices of Russia and the PRC decreased to a significantly higher degree than the Community consumption during the same period. Furthermore, import prices from the countries under consideration continued to decrease significantly, while consumption remained relatively stable from 2002 onwards and even increased slightly. At the same time, sales prices of imports from other third countries decreased to a much lesser degree than the import prices from Russia and the PRC. The direct correlation between the decrease in consumption and the Community industry's prices could therefore not be established and it was concluded that the development of consumption could not have such an impact that the injury resulting from the dumped imports could no longer be classified as material. Indeed, the dumped imports represent a significant market share (about 35 %) and have been made at very low prices. Compared with this, the effect of the decrease in consumption, which moreover only occurred until 2002, is only fairly small. Moreover, the Community industry did not lose any economies of scale as a result of reduced consumption.

(100) This imbalance between the drop in prices and the decrease in consumption is also evidenced by the fact that the decrease in consumption was neither in line with the decrease of the Community market value of granular PTFE. Therefore, the comparison between market value and consumption was a valid, albeit not the only indicator with which to assess whether the price decline of the Community industry was due to the dumped imports.

(101) In the absence of any other comment in this particular regard, the findings in recitals 127 to 129 of the provisional Regulation are hereby confirmed.

2.2. *Imports originating in third countries other than Russia and the PRC*

(102) In the absence of any comments in this particular regard, the findings in recital 130 of the provisional Regulation are hereby confirmed.

2.3. *Performance of non-complainant Community producers*

(103) It was argued that while the non-complaining Community producers suffered injury, such injury was mainly translated into a loss of market share, rather than into a loss in profitability as in the case of the Community industry. On this basis, it was alleged that one and the same factor, i.e. the dumped imports could not have had such adverse effects on the Community producers' situation, be it complainants or non-complainants. Consequently, it was claimed that the material injury suffered by the Community producers must have been caused by other factors.

(104) This argument had to be rejected. As mentioned in recital 103 of the provisional Regulation, producers, when faced with low-priced imports, have the choice to either maintain their sales prices at the expense of a negative development of their sales volume and market share, or to lower their sales prices in order to preserve, as far as possible, economies of scale and to defend their position in the market. It is therefore not unusual that different producers opt for different strategies and that the injury suffered by these producers is translated into the negative development of either their market share or their sales prices or a combination of both and a consequent loss of their profitability. Given the important dumping, the substantial import volume and market shares as well as the significant undercutting and the dramatic drop in prices of the dumped imports, it can be concluded, in the absence of any further causes that the dumping is at the origin of a negative situation such as the one experienced by the Community industry.

(105) In the absence of any other comments in this particular regard, the findings in recital 133 of the provisional Regulation are hereby confirmed.

2.4. *Worldwide price development, economic recession and market shrinkage*

(106) It was claimed that on the basis of a decreasing trend of import prices as recorded by Eurostat and, in particular, import prices of the USA and Switzerland, granular PTFE prices had dropped in general in the entire Community market. This downward trend in prices would also be due to the fact that the granular PTFE market is a shrinking market, i.e. demand and consumption is decreasing. Therefore, the decline of the sales prices of the Community industry is rather due to this general downward trend than to the dumped imports from the countries concerned.

(107) It should be noted that an analysis of import prices, as recorded by Eurostat, in general, and from Switzerland and the USA in particular, revealed that these were largely above the import price level of the PRC and Russia, as well as those of the Community industry. Likewise, the prices of the non-complainant Community producers were above the price level of the Community industry. Therefore, it was concluded that third countries and the non-complainant Community producers did not exert a competitive pressure on prices which could be regarded as a significant source of injury.

(108) It is further noted that as mentioned above, although Community consumption was decreased significantly from 2001 to 2002, it remained fairly stable afterwards and even increased slightly. Moreover, this increasing trend was confirmed after the IP. Consequently, the granular PTFE market cannot be considered as a shrinking market.

(109) On the basis of the above, it was concluded that the general economic downward trend during the period considered did not break the causal link between the dumped imports from the PRC and Russia and the material injury suffered by the Community industry.

2.5. *Efficiency of the Community industry*

(110) Some cooperating exporters stated that the provisional conclusion in recital 135 of the provisional Regulation, i.e. that the Community industry's cost of production was decreasing was not in line with the data submitted in the complaint, which suggested an increase in the Community industry's unit cost during the period considered. They claimed that it should have been investigated whether or not this increase in costs caused the material injury suffered. In this respect, it should be noted that the conclusion of recital 135 in the provisional Regulation was based on data which were verified during the different on-the-spot investigations at the premises of the European producers. Therefore, these claims were rejected.

(111) Another exporting producer claimed that the Community industry lowered its sales prices to unnecessary low levels, which would be evidenced by the fact that the Community industry increased sales volume and gained (instead of merely maintained) market share during the period considered. Furthermore, it was alleged that the loss in profitability was rather due to an increase of unit costs, as a consequence of low capacity utilisation rates and an increase in wages, than to the imports under consideration.

(112) It should first be noted that, in contrast to this exporting producers' allegation, the production cost of the Community decreased during the period considered, which was therefore not considered as a cause for the loss of the Community industry's profitability. While it is true that the Community industry was able to keep its market position and even increase its market share, this was at the expense of its profitability. It is recalled that the imports under consideration significantly undercut the Community industry's prices throughout the period considered, which could not be outweighed by the Community industry's increase in market share.

(113) On the basis of the above, it was concluded that, since the Community industry had efficient production processes and decreasing production costs, the material injury suffered by the Community industry was not self-inflicted. The findings of recital 135 of the provisional Regulation are thereby confirmed.

2.6. *Captive sales*

(114) Two Russian exporting producers claimed that captive sales of granular PTFE of at least two Community producers had increased significantly during the period considered. It was argued that, given that these sales were usually unprofitable, the increase in captive sales should be considered as a possible cause for the injury suffered by the Community industry.

(115) In this regard, the investigation revealed that captive sales constituted only around 5 % of the Community industry's total production volume during the IP. Given these low quantities, it was concluded that, even if unprofitable, captive sales could not break the causal link between the dumped imports from the PRC and Russia and the material injury suffered by the Community industry.

2.7. *No competition between granular PTFE imported from Russia and the PRC and the PTFE produced and sold by the Community industry*

(116) One exporting producer claimed that since the granular PTFE imported from the countries concerned would be of an overall lower quality and would not compete with the product sold by the Community industry in the Community market, any injury suffered by the Community industry cannot have been caused by the imports under consideration.

(117) In this respect, it is recalled that in recitals 12 to 14 of this Regulation it was concluded that despite different possible product types, including quality differences, the granular PTFE produced by the Community industry and the product concerned imported from the countries concerned have the same physical characteristics and essentially the same basic end-uses. As set out in recitals 16, 90 and 92 of the provisional Regulation and in recital 10 of this Regulation, the investigation also confirmed that all imported product types are in competition with those produced and sold by the Community industry on the Community market. Therefore, the above claim had to be rejected.

2.8. *Exports by the Community industry*

(118) As mentioned in recital 89 of this Regulation, the increase of export sales from the Community industry was in fact 54 %. However, the main conclusions in recital 134 of the provisional Regulation, i.e. that these increased exports constituted only a small part of the Community industry's total sales (namely 12,7 % during the IP) are confirmed. Therefore, and in the absence of any other comments in this particular regard, the findings in recital 134 of the provisional Regulation are hereby confirmed.

2.9. *Exchange rate fluctuations*

(119) Some interested parties argued that the depreciation of the United States dollar (USD) against the euro would have caused the injury suffered by the Community industry. It was claimed that: (i) the depreciation of the USD would have reduced the Community industry's export sales to the United States; and (ii) increased the competitiveness of the Russian and Chinese imports.

(120) As far as the export sales of the Community industry are concerned, these parties did not provide any underlying evidence but based their statement on mere assumptions. They did not, in particular, specify whether export sales of the Community industry would have allegedly been reduced in volume or in value or in both. In any case, as already concluded in recital 118 of this Regulation, the Community industry export sales increased by 54 % during the period considered. As indicated in recital 134 of the provisional Regulation, the profit margin realised by the Community industry on these export sales was higher than the one realised on sales in the Community market. Therefore, the export sales development of the Community industry could not be considered to have any negative impact on the situation of the Community industry.

(121) As far as imports from Russia and the PRC are concerned, it must be noted that they were significantly dumped, i.e. reaching dumping margins of 36,6 % for Russia and almost 100 % for the PRC. On the other hand, imports from other countries into the Community representing roughly 25 % of the Community consumption were made at significantly higher prices than those from Russia and the PRC, despite the depreciation of the USD. Also, the undercutting of the imports under consideration was substantial throughout the whole period and exceeded by far the depreciation rate of the USD against the euro. This claim is therefore rejected.

2.10. *Conclusion on causation*

(122) Based on the abovementioned considerations and other elements contained in recitals 121 to 138 of the provisional Regulation, it is concluded that dumped imports from Russia and the PRC have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

F. **COMMUNITY INTEREST**

1. **Financial impact on users**

(123) Several users reiterated their main concern that the imposition of definitive measures would have a serious adverse impact on their financial situation since they would not be able to pass on the expected increase in costs resulting from the imposition of anti-dumping measures to their customers.

(124) In this regard, subsequent to provisional disclosure, five users/processors not cooperating so far were contacted and invited to fill in a questionnaire. These users/processors who only requested a questionnaire after imposition of provisional measures were previously unknown to the Community institutions. It was found that a number of these users were importing the majority of the granular PTFE used in their production/processing process from the countries under consideration. These users represented a large part of the total imports from Russia and the PRC, as well as the total Community consumption. They alleged that anti-dumping measures would have a significant impact on their profitability. Under these circumstances and given the low number of users cooperating prior to the imposition of provisional measures, as well as the alleged impact of the imposition of anti-dumping measures, it was considered warranted to accept these replies, albeit submitted at a late stage of the investigation, in order to have findings as representative as possible.

(125) Four users replied to the questionnaire (one only partially). One of these users was a transformer of granular PTFE, with part of its production directly competing with the Community producers on the granular PTFE market, while the other users were processors producing semi-finished and finished products, by using granular PTFE directly in their production process. The users already cooperating prior to the imposition of provisional measures and the ones coming forward after imposition of provisional duties were also invited to submit additional information regarding their cost of production, with a view to complementing the data used for the provisional findings and to allow a detailed, in-depth analysis of all aspects of the situation of different users, in particular to calculate the precise impact of the anti-dumping measures on their profitability. However, only four companies replied to this additional request. In summary, a total of seven users cooperated, representing 67,8 % of total imports from the countries concerned and 41,3 % of the total Community consumption.

(126) The additional investigation revealed that the impact of definitive anti-dumping duties on users would vary significantly depending on the quantity of imported granular PTFE used in their production processes. In this regard, the calculations were made on the basis of the assumption that none of the users would be able to pass the price increase on to their customers. In this hypothetical worst case scenario, for two companies, sourcing between 70 and 80 % of granular PTFE from the countries under consideration, the impact of the measures on their profitability was estimated to be up to 7,5 %. For the remaining cooperating users, importing less than 30 % of their raw material from the countries under consideration, the impact, under the assumption that the price increase would not even be partly passed on to their customers, was estimated at a maximum of 2,7 %.

(127) It should be noted, however, that the investigation also confirmed that price increases in the Community, as a consequence of the imposition of anti-dumping measures, will very likely be passed on to the final customer. In that respect, it was considered that the high price pressure in the Community was mainly due to the low-priced imports from the PRC and Russia. It is therefore expected that with the imposition of anti-dumping measures, price levels of granular PTFE in the Community will generally increase. The investigation also revealed that downstream products were partly resold via distributors benefiting from high margins, which indicates that those distributors have the potential to absorb price increases. Finally, it was found that there was very little competition in the market of semi-finished and finished products produced from granular PTFE from third countries during the IP, which also indicates that price increases would likely be passed on to the final customers. Indeed, the semi-finished and finished products market is dominated by Community processors, rather than imported products, which will all be equally subject to the anti-dumping duties. Therefore, it is expected that a price increase will equally affect all Community operators concerned and no price pressure is expected from imported products. For these reasons, it is concluded that users will in all likelihood be able to pass on a considerable part of the cost increase to their customers, so that the estimated impact of anti-dumping measures on their profitability should, in reality, be much more limited than in the worst case scenario.

(128) Secondly, it should be noted that, even if the price increase could not be partly passed on, which is not a realistic hypothesis, the impact on the profitability of the above four cooperating users would not appear to be disproportionate. Two of the users would still be profitable, even in that of worst case scenario. One of the cooperating producers, for which the estimated impact of any anti-dumping measure would be slightly more than 1 %, already realised significant losses during the IP, which were not linked to the anti-dumping measures. Any price increase due to anti-dumping duties would therefore not have a considerable impact on its business performance. Finally, the last user had a significant gross margin, i.e. over 30 % and it is therefore expected that it can itself, at least partly absorb any price increase due to the imposition of anti-dumping duties.

(129) As mentioned in recital 125 of this Regulation, the above findings reflect the situation of users representing almost 70 % of the total imports from the countries concerned and roughly 40 % of the Community consumption. The investigation covered also different types of users, i.e. representing different industrial sectors, using granular PTFE either directly or in semi-finished products, some importing high quantities from the countries concerned, others only limited quantities. It was therefore considered that the above findings could be regarded as largely representative. It should also be noted that, as mentioned in recital 147 of the provisional Regulation, the impact of the anti-dumping duties on certain users is negligible due to the fact that granular PTFE constitutes a rather low proportion of their overall costs.

(130) Furthermore, it should be noted that all cooperating users have a significant business outside the Community. Indeed, 24,6 % of the users' sales volume is exported outside the Community. This implies that the inward processing regime would allow these users to claim back or to avoid paying the anti-dumping duties levied on the imported granular PTFE. Consequently, this segment of the users' business will not be affected by the measures.

(131) Finally, when considering the possible effects of measures on users, it should also be noted that their current financial situation is partly due to the unfair competition resulting from the existence of dumped imports. This should be taken into account, when balancing the possible negative impact of measures on users against the positive effects on other interested parties, in particular the Community industry.

(132) For all the abovementioned reasons, it is concluded that the likely effect of measures on users would not be disproportionate. It was therefore concluded that the imposition of definitive anti-dumping duties would not be against the Community interest.

2. **Imports of semi-finished and finished products**

(133) Certain users also claimed that they would be placed in a situation of competition distortion *vis-à-vis* producers in the countries concerned of semi-finished and finished products not subject to anti-dumping duties, in particular because such producers would shift their exports to the Community from granular PTFE to semi-finished and finished products. As a consequence, users in the Community would need to relocate part of their business outside the European Community in order to have access to cheaper raw material.

(134) As regards the semi-finished and finished products, it was found that the threat of increasing imports of cheaper semi-finished and finished downstream products from the countries concerned is not imminent. On the basis of the information available, i.e. in particular the known quality difference between the imported granular PTFE from the countries concerned and the one produced by the Community industry, neither Russian nor Chinese producers are currently able to produce the complete product range produced by the users in the Community, due to a lack of the necessary technical know-how. A number of parties observed that the know-how of Russian and Chinese producers as well as the quality of their products is constantly increasing and that the imposition of definitive anti-dumping duties would accelerate this process because it would create an incentive for shifting the production of semi-finished and finished products to these countries where the granular PTFE was available at cheaper prices. It is noted that according to some operators in the market, imports of semi-finished products from the countries concerned indeed appeared to have an increasing trend. There is, however, no evidence available suggesting that the quality of the products imported is comparable to that of the products manufactured and sold on the Community market and that there would therefore indeed be a higher competition and a risk of increasing imports of semi-finished and finished products.

(135) Furthermore, the claim that the processing activities would actually consider to move outside the Community, or that exporters would shift into further processed products was not substantiated by sufficient evidence. The investigation also revealed that some users had only recently invested in their production process in the Community, which indicates that the relocation of those production facilities would be highly unlikely.

3. **Employment**

(136) It was also argued that the processing industry employs by far more people than the granular PTFE producers in the Community and that those jobs would be in danger should anti-dumping measures be imposed.

(137) The investigation revealed that the information submitted by the users'/importers' organisation concerned with regard to employment was largely overestimated. In addition, only a proportion of those jobs would be directly threatened by the imposition of anti-dumping duties. It should also be noted that the production of granular PTFE is more capital-intensive, while the production of semi-finished or finished products is much more labour-intensive. Therefore, a direct comparison between the number of jobs of the granular PTFE industry and the downstream industry is not appropriate. Furthermore, it should be noted that some jobs at the non-complainant Community producers and suppliers would also be threatened. As indicated above, the non-complainant Community producers have already lost significant market share since the beginning of the period considered. Finally, a number of users and therefore jobs in the Community are also dependent fully or partly on the supply from the Community industry and from the non-complainant Community producers. Therefore, should the Community industry disappear these jobs would be equally in danger.

4. **Shortage of supply**

(138) A number of parties also reiterated that the imposition of definitive duties would lead to a shortage of supply because it would prevent the exporting producers from the PRC and Russia from exporting their products to the Community, while the Community industry would not have sufficient capacity to supply the Community demand. It was also argued that even if the Community industry would have the theoretical capacity to increase its production of PTFE, this would economically not be interesting since the production of granular PTFE would generate less profit than the production of other fluoropolymers. It was claimed that other sources, such as Japan and the USA would not be a valid alternative because import prices from these countries remain high. It was further claimed that the shortage in the Community market would be aggravated by the expected increase in demand on the Community market. On the other hand, for certain low-end applications, the product produced in the Community would be over-specified and would be too expensive to be used in such applications. Finally, it was argued that reactor bead would not be sold at all in the Community, while pre-sintered grades are only produced in limited quantities in the Community, thus users would be dependent on imports from the countries under consideration.

(139) It should be recalled that the Community industry's capacity is 9 200 tons, at 80 % capacity utilisation. The sales volume during the IP was about 4 845 tons. This implies that the complaining producers would be able to sell an additional 4 355 tons of the like product, which is 85 % of the total imports of the countries concerned. The argument that the Community industry would not use this free capacity to produce granular PTFE, due to the low profit margins generated by the sales of this product, had to be rejected. It should be noted that this argument was not supported by any evidence. Moreover, the low profitability generated by the Community industry's sales of granular PTFE was due to the dumped imports which were significantly undercutting the Community industry's prices and therefore causing substantial price pressure. Therefore, with the imposition of definitive anti-dumping duties prices on the Community market should recover which would also have a positive effect on the profitability.

(140) As far as reactor bead is concerned, it was found that only very limited quantities were imported during the IP. Likewise, imports of pre-sintered grades were very limited during the IP, which implies that pre-sintered grades are made by the users themselves. It was found that at least two Community producers are able to produce pre-sintered grades. Finally, as mentioned above, the Community industry also sold 'off-spec' grades during the IP, which are comparable to the low quality grades from the PRC and Russia.

(141) Other sources, such as Japan and USA are also available. The argument that import prices from these countries are higher than those from the countries under investigation and that granular PTFE from Japan and the USA would therefore not be a valid alternative cannot be accepted because the purpose of the anti-dumping duties is precisely to eliminate injurious dumping and restore fair conditions of competition.

(142) It is further recalled that the purpose of any anti-dumping measure is by no means to stop access to the Community market for products from the countries concerned, but rather to restore a level playing field that had been distorted by unfair trade practices. Therefore, granular PTFE, including the product types for which a shortage was alleged, from the countries concerned can continue to enter the Community market, albeit at higher price levels.

(143) Based on the abovementioned considerations and other elements contained in recitals 139 to 153 of the provisional Regulation, it is concluded that no compelling reasons exist for not imposing anti-dumping measures on import of the product concerned originating in Russia and the PRC.

G. **DEFINITIVE ANTI-DUMPING MEASURES**

1. **Injury elimination level**

(144) Based on the methodology set out in recitals 154 to 159 of the provisional Regulation, an injury elimination level was calculated for the purpose of establishing the level of measures to be definitively imposed.

(145) One of the Russian exporting producers claimed that the adjustment for differences in the level of trade should have been based on the information provided by the fully cooperating unrelated importer which accounted for the major part of its imports. However, although the information of this importer was verified on-the-spot, due to the highly complex sales structure of the importer in question, involving a number of different companies from which no information was available, purchase prices and consequently the profit margin of this unrelated importer could not be reliably established and were therefore not used. Alternatively, this exporting producer claimed that in order to calculate the adjustment for the level of trade, the cif import price should be compared to the resale price of the importer in question in the Community. However, it was found that this methodology would not lead to more reliable results than the methodology used for the provisional determinations. In contrast, the information available, in particular the audited accounts of the importer, confirmed that the estimations made in the provisional determinations were reasonable.

(146) Both Russian exporting producers also claimed that the comparison of their export price to the non-injurious price should have been made on a per-model basis. In particular, it was argued that the more expensive speciality types produced by the Community industry should have been excluded from the calculation of the injury elimination level. In this context, it is recalled that, as outlined in recitals 28 to 40 of this Regulation, findings for both Russian exporting producers had to be based on facts available in accordance with Article 18 of the basic Regulation. Since no reliable data on a per-model basis was available, the determination of the export price of these exporting producers was based on data recorded by Eurostat. Furthermore, as mentioned in recital 9 and 55 of this Regulation, imported PTFE after post-treatment was of a similar quality to the PTFE produced by the Community industry and could be used in almost all applications, including high-end applications. This claim had therefore to be rejected.

(147) A number of parties contested the level of profit of 9,3 % used for the calculation of the provisional underselling margin, claiming that it was too high. In particular, it was argued that it should be taken into consideration that the granular PTFE market is shrinking and cost of production is increasing, therefore the Community industry would not have been able to achieve 9,3 % profit in the absence of dumped imports. It was proposed to use a profit margin of 5 % instead.

(148) In this regard, it is recalled that the profit margin of 9,3 % was based on actual and verified data submitted by the Community producers, i.e. evidence which showed that 9,3 % was the profit effectively obtained before dumped imports started to penetrate into the Community market. It is also noted that, as mentioned in recital 112 of this Regulation cost of production decreased during the period considered. In the absence of any new information, the methodology used for establishing the injury margin as described in recitals 156 to 159 of the provisional Regulation are hereby confirmed.

2. **Definitive duties**

(149) In the light of the foregoing, it is considered that a definitive anti-dumping duty should be imposed at the level of the dumping margin found, but should not be higher than the injury margin calculated in accordance with Article 9(4) of the basic Regulation.

(150) The proposed definitive duty rates, expressed as a percentage of the CIF Community border price, customs duty unpaid, are as follows:

Exporting country	Injury elimination margin	Dumping margin	Proposed anti-dumping duty
PRC	55,5 %	99,7 %	55,5 %
Russia	40,0 %	36,6 %	36,6 %

(151) In order to ensure a proper enforcement of the anti-dumping duty, the residual duty level should not only apply to the non-cooperating exporter, but also to those companies which did not have any exports during the IP. However, the latter companies are invited, when they fulfil the requirements of Article 11(4) of the basic Regulation, second paragraph, to present a request for a review pursuant to that Article in order to have their situation examined individually.

3. **Undertakings**

(152) One Chinese exporting producer which was granted neither MET nor IT has shown an interest in offering an undertaking. However, it is Commission practice not to accept undertaking offers from companies which were neither granted MET nor IT since no individual dumping margin can be established in those cases. Moreover, the investigation revealed that the accounts of the company concerned were not reliable so that the monitoring of the undertaking would have proved impractical.

(153) The two Russian exporting producers also made proposals for offering an undertaking. However, as stated in recitals 28 to 35 of this Regulation, the findings with regard to both exporting producers had to be made on the basis of the facts available. It is recalled that the companies provided misleading information in respect of certain aspects of the investigation which affected the accuracy and reliability of their cooperation. Accordingly, the Commission was not satisfied that an undertaking from these companies could be effectively monitored and the offers were therefore rejected,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of so-called granular polytetrafluoroethylene (PTFE), containing not more than 3 % of other monomer unit than tetrafluoroethylene, without fillers, in the form of powder or pellets, with the exclusion of micronised material (namely fluoropolymer micropowder as defined by norm ASTM D5675-04) falling within CN code ex 3904 61 00 (TARIC code 3904 61 00 50) and originating in Russia and the PRC. The aforementioned product description also covers such products presented as raw polymer (reactor bead) in wet or dry form.

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, of the products described in paragraph 1, shall be as follows:

Country	Rate of duty
PRC	55,5 %
Russia	36,6 %

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

Article 2

The amounts secured by way of provisional anti-dumping duties pursuant to Commission Regulation (EC) No 862/2005 on imports of so called granular polytetrafluoroethylene (PTFE), containing not more than 3 % of other monomer unit than tetrafluoroethylene, without fillers, in the form of powder or pellets, with the exclusion of micronised material, and its raw polymer (reactor bead), the latter in wet or dry form, falling within CN code ex 3904 61 00 (TARIC code 3904 61 00 50) and originating in Russia and the PRC shall be collected at the rate of the duty definitively imposed. Amounts secured in excess of the definitive rate of anti-dumping duties shall be released. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties shall be definitively collected.

Article 3

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

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

Done at Brussels, 2 December 2005.

For the Council
The President
M. BECKETT

COMMISSION REGULATION (EC) No 1988/2005

of 7 December 2005

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], 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 8 December 2005.

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

Done at Brussels, 7 December 2005.

For the Commission
J. M. SILVA RODRÍGUEZ
Director-General for Agriculture and Rural Development

[1] OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 7 December 2005 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	052	57,6
	204	42,7
	212	89,9
	999	63,4
0707 00 05	052	141,0
	204	51,3
	220	147,3
	999	113,2
0709 90 70	052	122,2
	204	105,5
	999	113,9
0805 10 20	052	72,0
	204	65,0
	382	31,4
	388	37,6
	524	38,5
	999	48,9
0805 20 10	052	72,1
	204	64,7
	999	68,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	73,0
	400	82,4
	624	97,9
	999	84,4
0805 50 10	052	63,4
	999	63,4
0808 10 80	052	78,2
	400	92,7
	404	93,8
	720	72,8
	999	84,4
0808 20 50	052	140,1
	400	86,0
	404	53,2
	999	93,1

(1) Country nomenclature as fixed by Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1989/2005

of 7 December 2005

amending Commission Regulation (EC) No 1164/2005 opening a standing invitation to tender for the resale on the Community market of maize held by the Polish intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 6 thereof,

Whereas:

(1) Commission Regulation (EC) No 1164/2005 [2] was amended in order to extend the closing date for tenders until 28 June 2006.

(2) In the context of this extension, however, the weeks from 26 October 2005 when no invitation to tender will be made were not specified. Tenders could thus be lodged in good faith by traders during those weeks, although no Management Committee meetings are scheduled.

(3) It is necessary, therefore, to exclude the weeks up to 28 June 2006 during which no invitation to tender will be made.

(4) In view of foreseeable market requirements and the quantities which the Polish intervention agency has in its possession, Poland has informed the Commission that its intervention body intends to increase the amount put out to tender by 65 197 tonnes. In view of the market situation, the request made by Poland should be granted.

(5) Regulation (EC) No 1164/2005 should be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1164/2005 is amended as follows:

1. in Article 1, '90 000 tonnes' is replaced by '155 197 tonnes';

2. in Article 4(1), the second subparagraph is replaced by the following:

'The closing dates for the submission of tenders for subsequent partial invitations to tender shall be each Wednesday at 15.00 (Brussels time), with the exception of 3 August 2005, 17 August 2005, 31 August 2005, 28 December 2005, 12 April 2006 and 24 May 2006, i.e. weeks when no invitation to tender shall be made.'

Article 2

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

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

Done at Brussels, 7 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).
[2] OJ L 188, 20.7.2005, p. 4. Regulation as amended by Regulation (EC) No 1742/2005 (OJ L 280, 25.10.2005, p. 4).

COMMISSION REGULATION (EC) No 1990/2005

of 7 December 2005

amending Regulation (EC) No 1165/2005 opening a standing invitation to tender for the resale on the Community market of maize held by the Hungarian intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 6 thereof,

Whereas:

(1) Commission Regulation (EC) No 1165/2005 [2] was amended in order to extend the closing date for tenders until 28 June 2006.

(2) In the context of this extension, however, the weeks from 26 October 2005 when no invitation to tender will be made were not specified. Tenders could thus be lodged in good faith by traders during those weeks, although no Management Committee meetings are scheduled.

(3) It is necessary, therefore, to exclude the weeks up to 28 June 2006 during which no invitation to tender will be made.

(4) Regulation (EC) No 1165/2005 should be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

The second subparagraph of Article 4(1) of Regulation (EC) No 1165/2005 is hereby replaced by the following:

'The closing dates for the submission of tenders for subsequent partial invitations to tender shall be each Wednesday at 15.00 (Brussels time), with the exception of 3 August 2005, 17 August 2005, 31 August 2005, 28 December 2005, 12 April 2006 and 24 May 2006, i.e. weeks when no invitation to tender shall be made.'

Article 2

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

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

Done at Brussels, 7 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

[2] OJ L 188, 20.7.2005, p. 7. Regulation as amended by Regulation (EC) No 1741/2005 (OJ L 280, 25.10.2005, p. 3).

COMMISSION REGULATION (EC) No 1991/2005

of 7 December 2005

amending Regulation (EC) No 1166/2005 opening a standing invitation to tender for the resale on the Community market of maize held by the French intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 6 thereof,

Whereas:

(1) Commission Regulation (EC) No 1166/2005 [2] was amended in order to extend the closing date for tenders until 28 June 2006.

(2) In the context of this extension, however, the weeks from 26 October 2005 when no invitation to tender will be made were not specified. Tenders could thus be lodged in good faith by traders during those weeks, although no Management Committee meetings are scheduled.

(3) It is necessary, therefore, to exclude the weeks up to 28 June 2006 during which no invitation to tender will be made.

(4) Regulation (EC) No 1166/2005 should be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

The second subparagraph of Article 4(1) of Regulation (EC) No 1166/2005 is hereby replaced by the following:

'The closing dates for the submission of tenders for subsequent partial invitations to tender shall be each Wednesday at 15.00 (Brussels time), with the exception of 3 August 2005, 17 August 2005, 31 August 2005, 28 December 2005, 12 April 2006 and 24 May 2006, i.e. weeks when no invitation to tender shall be made.'

Article 2

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

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

Done at Brussels, 7 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

[2] OJ L 188, 20.7.2005, p. 10. Regulation as last amended by Regulation (EC) No 1743/2005 (OJ L 280, 25.10.2005, p. 5).

COMMISSION REGULATION (EC) No 1992/2005

of 7 December 2005

amending Regulation (EC) No 1168/2005 opening a standing invitation to tender for the resale on the Community market of maize held by the Austrian intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 6 thereof,

Whereas:

(1) Commission Regulation (EC) No 1168/2005 [2] was amended in order to extend the closing date for tenders until 28 June 2006.

(2) In the context of this extension, however, the weeks from 26 October 2005 when no invitation to tender will be made were not specified. Tenders could thus be lodged in good faith by traders during those weeks, although no Management Committee meetings are scheduled.

(3) It is necessary, therefore, to exclude the weeks up to 28 June 2006 during which no invitation to tender will be made.

(4) Regulation (EC) No 1168/2005 should be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

The second subparagraph of Article 4(1) of Regulation (EC) No 1168/2005 is hereby replaced by the following:

'The closing dates for the submission of tenders for subsequent partial invitations to tender shall be each Wednesday at 15.00 (Brussels time), with the exception of 3 August 2005, 17 August 2005, 31 August 2005, 28 December 2005, 12 April 2006 and 24 May 2006, i.e. weeks when no invitation to tender shall be made.'

Article 2

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

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

Done at Brussels, 7 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

[2] OJ L 188, 20.7.2005, p. 16. Regulation as last amended by Regulation (EC) No 1744/2005 (OJ L 280, 25.10.2005, p. 6).

COMMISSION REGULATION (EC) No 1993/2005

of 7 December 2005

on the adjustment of the export refunds on malt under Article 15(4) of Council Regulation (EC) No 1784/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 18, first paragraph thereof,

Whereas:

(1) Commission Regulation (EEC) No 1680/78 of 17 July 1978 on the adjustment of the export refunds on malt under Article 16(4) of Regulation (EEC) No 2727/75 [2] has been substantially amended [3]. In the interests of clarity and rationality the said Regulation should be codified.

(2) In the case of barley malt exported during the first three months of the marketing year in respect of which the refund was fixed in advance before 1 July, Article 15(4) of Regulation (EC) No 1784/2003 lays down the conditions for adjusting the refund fixed in advance.

(3) It must be ensured that, when such adjustment is to be made, the barley malt exported during the first three months of the marketing year was in stock at the end of the preceding marketing year or was made from barley in stock at that time; whereas the quantities of barley and malt in stock at the end of the marketing year in question must therefore be ascertained. The competent authorities of each Member State should be responsible for ascertaining such quantities and for taking all necessary steps to ensure compliance with the Community provisions concerning the adjustment of export refunds on malt exported during the period under consideration.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The provisions of this Regulation shall apply to malt or barley in stock at the end of a marketing year which is exported as malt during the first three months of the following marketing year under a licence on which a refund was fixed in advance before 1 July.

2. For the purpose of determining the day of export, the relevant date shall be that on which customs formalities as referred to in Article 24(1) of Commission Regulation (EC) No 1291/2000 [4] are completed.

Article 2

1. To qualify for the adjustment of the export refund on barley malt under Article 15(4) of Regulation (EC) No 1784/2003 the exporter must:

(a) if the malt was made from barley in stock at the end of the marketing year, supply the competent authority of the Member State responsible for paying the refund with documents certifying:

  (i) that the barley comes from stocks declared in accordance with Article 3 below to the competent authority of the Member State in whose territory they were situated;

  (ii) that the malt was exported after 30 June and before 1 October of the year in question;

(b) if the malt was in stock at the end of the marketing year, supply the competent authority of the Member State responsible for paying the refund with documents certifying:

  (i) that the malt comes from stocks declared in accordance with Article 3 below to the competent authority of the Member State in whose territory they were situated;

  (ii) that the malt was exported after 30 June and before 1 October of the year in question.

2. The documents referred to in points (a)(i) and (b)(i) of paragraph 1 shall be kept by the competent authority responsible for paying the refund.

[1] OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).
[2] OJ L 193, 18.7.1978, p. 10. Regulation as amended by Regulation (EEC) No 2029/86 (OJ L 173, 1.7.1986, p. 44).
[3] See Annex II.
[4] OJ L 152, 24.6.2000, p. 1.

Article 3

1. The stockholder of malt or barley liable to be exported as malt with the adjusted refund must have made a declaration to the competent authority of the Member State in whose territory the stocks are situated, by registered letter or by electronic communication sent not later than the third working day in July, indicating the aforesaid stocks of malt and barley held by him on 30 June. Such declaration shall at least include the items specified in Annex I hereto.

2. If the conditions laid down in paragraph 1 have been fulfilled and on application by the interested party, the competent authority shall issue one or more certificates stating that the products exported were actually in stock at the end of the previous marketing year and therefore qualify for the adjustment of the refund in accordance with Article 15(4) of Regulation (EC) No 1784/2003.

Certificates may be issued only in respect of a quantity not exceeding that declared in accordance with paragraph 1. At the request of the party concerned, a previously issued certificate may be exchanged for two or more certificates in respect of part quantities.

Article 4

1. The competent authority of each Member State shall:

(a) carry out the necessary checks of stocks and of their movements within its territory;

(b) adopt all necessary additional measures to take account of the special conditions within its territory and in particular of the periods during which stocks and their movements are to be subject to checks.

2. Member States shall send to the Commission not later than 31 December of the year in question a written report on the operation of this Regulation, indicating the quantities of barley and malt in stock at the end of the marketing year and the quantities of malt exported under this Regulation.

3. In each Member State the competent authority shall be the intervention agency or such other body as the Member State shall designate.

Article 5

Regulation (EEC) No 1680/78 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

Article 6

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

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

Done at Brussels, 7 December 2005.

For the Commission
José Manuel BARROSO
President

ANNEX I

Basic information to be supplied with the declaration of stocks of malt or barley present on 30 June

A. *Malt*

1. Quantity, broken down by category of malt.

2. Place of storage.

B. *Barley*

1. Quantity.

2. Place of storage.

3. Declaration certifying that:

(a) the barley does not come from the new Community crop;

(b) the barley is suitable for processing into malt.

ANNEX II

Repealed Regulation with its amendment

Commission Regulation (EEC) No 1680/78	(OJ L 193, 18.7.1978, p. 10)
Commission Regulation (EEC) No 2029/86	(OJ L 173, 1.7.1986, p. 44)

ANNEX III

CORRELATION TABLE

Regulation (EEC) No 1680/78	This Regulation
Article 1	Article 1
Article 2(1) introductory sentence	Article 2(1) introductory sentence
Article 2(1) first indent, introductory sentence	Article 2(1)(a) introductory sentence
Article 2(1) first indent, point (a)	Article 2(1)(a)(i)
Article 2(1) first indent, point (b)	Article 2(1)(a)(ii)
Article 2(1) second indent, introductory sentence	Article 2(1)(b) introductory sentence
Article 2(1) second indent, point (a)	Article 2(1)(b)(i)
Article 2(1) second indent, point (b)	Article 2(1)(b)(ii)
Article 2(2)	Article 2(2)
Article 3	Article 3
Article 4	Article 4
—	Article 5
Article 5	Article 6
Annex	Annex I
—	Annex II
—	Annex III

COMMISSION REGULATION (EC) No 1994/2005

of 7 December 2005

fixing the basic products which do not qualify for advance payment of export refunds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 18, first paragraph thereof, and to the corresponding provisions of the other Regulations on the common organisation of the market in agricultural products,

Having regard to Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products [2],

Whereas:

(1) Commission Regulation (EEC) No 1618/81 of 17 June 1981 on fixing the basic products which do not qualify for advance payment of export refunds [3] has been substantially amended several times [4]. In the interests of clarity and rationality the said Regulation should be codified.

(2) Article 4(2) of Regulation (EEC) No 565/80 applies to processed products and goods obtained from basic products, provided that inward processing arrangements are not prohibited for comparable products. The list of these products referred to in Article 8 of Regulation (EEC) No 565/80 should be drawn up. Inward processing is prohibited for certain products which are comparable with the basic products.

(3) The measures provided for in this Regulation are in accordance with the opinion of all the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

The basic products which shall not qualify under the arrangements referred to in Article 4 of Regulation (EEC) No 565/80 are listed in Annex I of this Regulation.

However, such basic products shall be excluded only where they are intended for use in the processing of the products mentioned:

(a) in Annex I to Regulation (EC) No 1784/2003, excluding products covered by CN code 2309 referred to therein;

(b) in Article 1(1)(c) of Council Regulation (EC) No 1785/2003 [5].

Article 2

Regulation (EEC) No 1618/81 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

Article 3

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

[1] OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).
[2] OJ L 62, 7.3.1980, p. 5. Regulation as last amended by Commission Regulation (EC) No 444/2003 (OJ L 67, 12.3.2003, p. 3).
[3] OJ L 160, 18.6.1981, p. 17. Regulation as last amended by Regulation (EEC) No 3480/88 (OJ L 305, 10.11.1988, p. 28).
[4] See Annex II.
[5] OJ L 270, 21.10.2003, p. 96.

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

Done at Brussels, 7 December 2005.

For the Commission
José Manuel BARROSO
Member of the Commission

ANNEX I

CN code	Description
1104	Cereal grains otherwise worked (for example, hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading 1006; germ of cereals, whole, rolled, flaked or ground:
1104 30	– Germ of cereals, whole, rolled, flaked or ground
1106	Flour, meal and powder of the dried leguminous vegetables of heading 0713, of sago or of roots or tubers of heading 0714 or of the products of Chapter 8:
1106 20	– Of sago or roots or tubers of heading 0714:
1106 20 90	– – Other
1109 00 00	Wheat gluten, whether or not dried
2302	Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants:
2302 10	– Of maize (corn)
2302 20	– Of rice
2302 30	– Of wheat
2302 40	– Of other cereals
2303	Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets:
2303 10	– Residues of starch manufacture and similar residues:
	– – Residues from the manufacture of starch from maize (excluding concentrated steeping liquors), of a protein content, calculated on the dry product:
2303 10 11	– – – Exceeding 40 % by weight

ANNEX II

Repealed Regulation with its successive amendments

Commission Regulation (EEC) No 1618/81	(OJ L 160, 18.6.1981, p. 17)
Commission Regulation (EEC) No 2880/84	(OJ L 272, 13.10.1984, p. 15)
Commission Regulation (EEC) No 3480/88	(OJ L 305, 10.11.1988, p. 28)

ANNEX III

CORRELATION TABLE

Regulation (EEC) No 1618/81	This Regulation
Article 1	Article 1
Article 2	—
—	Article 2
Article 3	Article 3
Annex	Annex I
—	Annex II
—	Annex III

COMMISSION REGULATION (EC) No 1995/2005

of 7 December 2005

amending Regulation (EC) No 1864/2004 opening and providing for the administration of tariff quotas for preserved mushrooms imported from third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organization of the markets in processed fruit and vegetable products [1], and in particular Article 15(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 1864/2004 [2] provides for two periods of application for import licences per year.

(2) In the interest of reducing the administrative burden on the competent authorities of the Member States and the importers, only one application per year should be provided for. In order to ensure the continuity of imports throughout the year, the licences should be valid from their effective date of issue until 31 December of the year concerned.

(3) In the interest of better management, some order numbers of the tariff quotas opened by Regulation (EC) No 1864/2004 should be changed. For the sake of clarity, all of them should be listed in Annex I to that Regulation.

(4) Regulation (EC) No 1864/2004 should therefore be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Products Processed from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1864/2004 is amended as follows:

1. Article 1 is replaced by the following:

'*Article 1*

1. A system of tariff quotas is opened in relation to imports into the Community of preserved mushrooms of the genus *Agaricus* classifiable within CN codes 0711 51 00, 2003 10 20 and 2003 10 30 (hereinafter referred to as preserved mushrooms), subject to the conditions laid down in this Regulation. The volume of each of the tariff quotas, their order number and the period for which they apply, are specified in Annex I.

2. The rate of duty applicable shall be 12 % *ad valorem* in the case of products falling within CN code 0711 51 00 and 23 % in the case of products falling within CN codes 2003 10 20 and 2003 10 30.

However, no duty shall apply in respect of products originating in Romania and Bulgaria.';

2. in Article 5, paragraph 2 is replaced by the following:

'2. Licences shall be valid from their effective date of issue within the meaning of Article 23(2) of Regulation (EC) No 1291/2000 until 31 December of the year concerned.';

3. in Article 6, paragraph 2 is replaced by the following:

'2. For imports originating in China and other countries, if the quantity allocated is not fully exhausted by one category of importers, the remainder shall be allocated to the other category.';

4. Article 7 is replaced by the following:

'*Article 7*

Restrictions applicable to applications presented by different importers

1. The total amount (drained net weight) of the licence applications to import into the Community preserved mushrooms originating in China and/or other countries submitted by a traditional importer may not relate to a quantity exceeding 150 % of the reference quantity.

[1] OJ L 297, 21.11.1996, p. 29. Regulation as last amended by Commission Regulation (EC) No 386/2004 (OJ L 64, 2.3.2004, p. 25).

[2] OJ L 325, 28.10.2004, p. 30. Regulation as amended by Regulation (EC) No 1857/2005 (OJ L 297, 15.11.2005, p. 9).

2. The total amount (drained net weight) of the licence applications to import into the Community preserved mushrooms originating in China and/or other countries submitted by a new importer may not relate to a quantity exceeding 1 % of the sum of tariff quotas allocated to China and other countries pursuant to Annex I.';

5. In Article 8, paragraph 2 is replaced by the following:

'2. Importers shall submit their applications for licences during the first five working days of January.';

6. in Article 9, the first paragraph is replaced by the following:

'Member States shall notify the Commission, no later than on the tenth working day of January, of the quantities for which licence applications have been lodged.';

7. In Article 10(2), the first subparagraph is replaced by the following:

'If it is found that the quantities applied for exceed the quantity available, the Commission shall decide, by means of a Regulation, to set an allocation coefficient to be applied to the licence applications in question.';

8. In Article 16, paragraph 1 is replaced by the following:

'1. If it is found that applications and/or declarations presented by an importer to the competent authorities of a Member State are false, misleading or inaccurate, unless they are clearly due to a genuine error, the competent authorities of the Member States concerned shall exclude the importer in question from the licence applications system for the next application period as referred to in Article 8(2).';

9. Annex I is replaced by the text in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 7 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

'ANNEX I

Volume, order number and period of application of tariff quotas referred to in Article 1(1) in tonnes (drained net weight)

Country of origin	Order No	1 January to 31 December of each year
Bulgaria	09.4725	2 887,5 (*)
Romania	09.4726	500
China	09.4157	23 750
Other countries	09.4158	3 290

(*) As from 1 January 2006, the allocation for Bulgaria shall be increased by 275 tonnes each year.'

COMMISSION REGULATION (EC) No 1996/2005

of 7 December 2005

on granting of import licences for cane sugar for the purposes of certain tariff quotas and preferential agreements

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1],

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations [2],

Having regard to Commission Regulation (EC) No 1159/2003 of 30 June 2003 laying down detailed rules of application for the 2003/04, 2004/05 and 2005/06 marketing years for the import of cane sugar under certain tariff quotas and preferential agreements and amending Regulations (EC) No 1464/95 and (EC) No 779/96 [3], and in particular Article 5(3) thereof,

Whereas:

(1) Article 9 of Regulation (EC) No 1159/2003 stipulates how the delivery obligations at zero duty of products of CN code 1701, expressed in white sugar equivalent, are to be determined for imports originating in signatory countries to the ACP Protocol and the Agreement with India.

(2) Article 16 of Regulation (EC) No 1159/2003 stipulates how the zero duty tariff quotas for products of CN code 1701 11 10, expressed in white sugar equivalent, are to be determined for imports originating in signatory countries to the ACP Protocol and the Agreement with India.

(3) Article 22 of Regulation (EC) No 1159/2003 opens tariff quotas at a duty of EUR 98 per tonne for products of CN code 1701 11 10 for imports originating in Brazil, Cuba and other third countries.

(4) In the week of 28 November to 2 December 2005 applications were presented to the competent authorities in line with Article 5(1) of Regulation (EC) No 1159/2003 for import licences for a total quantity exceeding a country's delivery obligation quantity of ACP-India preferential sugar determined pursuant to Article 9 of that Regulation.

(5) In these circumstances the Commission must set reduction coefficients to be used so that licences are issued for quantities scaled down in proportion to the total available and must indicate that the limit in question has been reached,

HAS ADOPTED THIS REGULATION:

Article 1

In the case of import licence applications presented from 28 November to 2 December 2005 in line with Article 5(1) of Regulation (EC) No 1159/2003 licences shall be issued for the quantities indicated in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 8 December 2005.

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

Done at Brussels, 7 December 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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[1] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 987/2005 (OJ L 167, 29.6.2005, p. 12).

[2] OJ L 146, 20.6.1996, p. 1.

[3] OJ L 162, 1.7.2003, p. 25. Regulation as last amended by Regulation (EC) No 568/2005 (OJ L 97, 15.4.2005, p. 9).

ANNEX

ACP–INDIA preferential sugar

Title II of Regulation (EC) No 1159/2003

2005/06 marketing year

Country	Week of 28.11.2005-2.12.2005: percentage of requested quantity to be granted	Limit
Barbados	100	
Belize	100	
Congo	100	
Fiji	100	
Guyana	100	
India	62,0759	reached
Côte d'Ivoire	100	
Jamaica	100	
Kenya	100	
Madagascar	100	
Malawi	100	
Mauritius	100	
Mozambique	0	reached
Saint Kitts and Nevis	100	
Swaziland	100	
Tanzania	100	
Trinidad and Tobago	100	
Zambia	100	
Zimbabwe	0	reached

Special preferential sugar

Title III of Regulation (EC) No 1159/2003

2005/06 marketing year

Country	Week of 28.11.2005-2.12.2005: percentage of requested quantity to be granted	Limit
India	100	
ACP	100	

CXL concessions sugar

Title IV of Regulation (EC) No 1159/2003

2005/06 marketing year

Country	Week of 28.11.2005-2.12.2005: percentage of requested quantity to be granted	Limit
Brazil	0	reached
Cuba	100	
Other third countries	0	reached

COMMISSION REGULATION (EC) No 1997/2005

of 7 December 2005

fixing the export refunds on pigmeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat [1], and in particular the second paragraph of Article 13(3) thereof,

Whereas:

(1) Article 13 of Regulation (EEC) No 2759/75 provides that the difference between prices on the world market for the products listed in Article 1(1) of that Regulation and prices for these products within the Community may be covered by an export refund.

(2) It follows from applying these rules and criteria to the present situation on the market in pigmeat that the refund should be fixed as set out below.

(3) In the case of products falling within CN code 0210 19 81, the refund should be limited to an amount which takes account of the qualitative characteristics of each of the products falling within these codes and of the foreseeable trend of production costs on the world market. It is important that the Community should continue to take part in international trade in the case of certain typical Italian products falling within CN code 0210 19 81.

(4) Because of the conditions of competition in certain third countries, which are traditionally importers of products falling within CN codes 1601 00 and 1602, the refund for these products should be fixed so as to take this situation into account. Steps should be taken to ensure that the refund is granted only for the net weight of the edible substances, to the exclusion of the net weight of the bones possibly contained in the said preparations.

(5) Article 13 of Regulation (EEC) No 2759/75 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of Regulation (EEC) No 2759/75 according to destination.

(6) The refunds should be fixed taking account of the amendments to the refund nomenclature established by Commission Regulation (EEC) No 3846/87 [2].

(7) Refunds should be granted only on products that are allowed to circulate freely within the Community. Therefore, to be eligible for a refund, products should be required to bear the health mark laid down in Council Directive 64/433/EEC [3], Council Directive 94/65/EC [4] and Council Directive 77/99/EEC [5].

(8) The Management Committee for Pigmeat has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The list of products on which the export refund specified in Article 13 of Regulation (EEC) No 2759/75 is granted and the amount of the refund shall be as set out in the Annex hereto.

The products concerned must comply with the relevant provisions on health marks laid down in:

— Chapter XI of Annex I to Directive 64/433/EEC,

— Chapter VI of Annex I to Directive 94/65/EC,

— Chapter VI of Annex B to Directive 77/99/EEC.

Article 2

This Regulation shall enter into force on 8 December 2005.

[1] OJ L 282, 1.11.1975, p. 1. Regulation as last amended by Regulation (EC) No 1365/2000 (OJ L 156, 29.6.2000, p. 5).

[2] OJ L 366, 24.12.1987, p. 1. Regulation as last amended by Regulation (EC) No 558/2005 (OJ L 94, 13.4.2005, p. 22).

[3] OJ 121, 29.7.1964, p. 2012/64. Directive as last amended by Directive 95/23/EC (OJ L 243, 11.10.1995, p. 7).

[4] OJ L 368, 31.12.1994, p. 10.

[5] OJ L 26, 31.1.1977, p. 85. Directive as last amended by Directive 97/76/EC (OJ L 10, 16.1.1998, p. 25).

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

Done at Brussels, 7 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

to the Commission Regulation of 7 December 2005 fixing the export refunds on pigmeat

Product code	Destination	Unit of measurement	Amount of refund
0210 11 31 9110	P06	EUR/100 kg	54,20
0210 11 31 9910	P06	EUR/100 kg	54,20
0210 19 81 9100	P06	EUR/100 kg	54,20
0210 19 81 9300	P06	EUR/100 kg	54,20
1601 00 91 9120	P06	EUR/100 kg	19,50
1601 00 99 9110	P06	EUR/100 kg	15,20
1602 41 10 9110	P06	EUR/100 kg	29,00
1602 41 10 9130	P06	EUR/100 kg	17,10
1602 42 10 9110	P06	EUR/100 kg	22,80
1602 42 10 9130	P06	EUR/100 kg	17,10
1602 49 19 9130	P06	EUR/100 kg	17,10

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.
The numeric destination codes are set out in Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12).
The other destinations are defined as follows:
P08 All destinations except for Bulgaria and Romania

COMMISSION REGULATION (EC) No 1998/2005

of 7 December 2005

fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs [1], and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat [2], and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin [3], and in particular Article 3(4) thereof,

Whereas:

(1) Commission Regulation (EC) No 1484/95 [4], fixes detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.

(2) It results from regular monitoring of the information providing the basis for the verification of the import prices in the poultrymeat and egg sectors and for egg albumin that the representative prices for imports of certain products should be amended taking into account variations of prices according to origin. Therefore, representative prices should be published.

(3) It is necessary to apply this amendment as soon as possible, given the situation on the market.

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 8 December 2005.

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

Done at Brussels, 7 December 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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[1] OJ L 282, 1.11.1975, p. 49. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

[2] OJ L 282, 1.11.1975, p. 77. Regulation as last amended by Regulation (EC) No 806/2003.

[3] OJ L 282, 1.11.1975, p. 104. Regulation as last amended by Commission Regulation (EC) No 2916/95 (OJ L 305, 19.12.1995, p. 49).

[4] OJ L 145, 29.6.1995, p. 47. Regulation as last amended by Regulation (EC) No 1878/2005 (OJ L 300, 17.11.2005, p. 49).

ANNEX

to the Commission Regulation of 7 December 2005 fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

'ANNEX I

CN code	Description	Representative price (EUR/100 kg)	Security referred to in Article 3(3) (EUR/100 kg)	Origin (1)
0207 12 90	Chickens, plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as "65 % chickens", or otherwise presented, frozen	105,1	4	01
		98,0	6	03
0207 14 10	Boneless cuts of fowl of the species Gallus domesticus, frozen	209,8	27	01
		219,5	24	02
		234,4	20	03
		264,5	11	04
0207 27 10	Boneless cuts of turkey, frozen	207,4	27	01
		280,6	5	04
1602 32 11	Preparations of uncooked fowl of the species Gallus domesticus	192,4	28	01
		277,0	3	03
		199,2	26	04

(1) Origin of imports:
01 Brazil
02 Thailand
03 Argentina
04 Chile.'

COMMISSION REGULATION (EC) No 1999/2005

of 7 December 2005

fixing the quantities for which applications for import licences can be lodged in respect of the period from 1 January to 30 June 2006 under the tariff quotas for beef and veal provided for in Council Regulation (EC) No 1279/98 for Bulgaria and Romania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1279/98 of 19 June 1998 laying down detailed rules for applying the tariff quotas for beef and veal provided for in Council Decisions 2003/286/EC and 2003/18/EC for Bulgaria, Romania [1], and in particular Article 4(4) thereof,

Whereas:

(1) Commission Regulation (EC) No 1271/2005 of 1 August 2005 determining the percentage of quantities which may be allowed in respect of import licence applications lodged in July 2005 under tariff quotas for beef and veal provided for in Regulation (EC) No 1279/98 for Bulgaria and Romania [2] lays down the conditions under which applications for import licences lodged for the period from 1 July to 31 December 2005 can be accepted.

(2) Licence applications have been lodged for smaller quantities of beef and veal products originating in Bulgaria and Romania that can be imported under special terms in the period from 1 July to 31 December 2005, as provided for in the first paragraph of Article 2 of Regulation (EC) No 1279/98, than the quantities actually available. In accordance with the second paragraph of that Article, therefore, the quantities left over from that period should be added to the quantities available for the following period for Bulgaria and Romania.

(3) The quantities of beef and veal products originating in Bulgaria and Romania that can be imported under special terms in the period from 1 January to 30 June 2006 must be established in the light of the available quantities left over from the preceding period, in accordance with the second paragraph of Article 2 of Regulation (EC) No 1279/98,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities for which applications for import licences can be lodged in respect of the period from 1 January to 30 June 2006 under the tariff quotas for beef and veal provided for by Regulation (EC) No 1279/98 shall be as set out in the Annex to this Regulation, by country of origin and quota serial number.

Article 2

This Regulation shall enter into force on 8 December 2005.

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

Done at Brussels, 7 December 2005.

For the Commission
J. M. SILVA RODRÍGUEZ
Director-General for Agriculture and Rural Development

[1] OJ L 176, 20.6.1998, p. 12. Regulation as last amended by Regulation (EC) No 1240/2005 (OJ L 200, 30.7.2005, p. 34).
[2] OJ L 201, 2.8.2005, p. 39.

ANNEX

Quantities available for the period referred to in Article 2 of Regulation (EC) No 1279/98, running from 1 January to 30 June 2006

Country of origin	Serial number	CN code	Quantity available (t)
Romania	09.4753	0201 0202	3 788
	09.4765	0206 10 95 0206 29 91 0210 20 0210 99 51	100
	09.4768	1602 50	500
Bulgaria	09.4651	0201 0202	2 245
	09.4784	1602 50	660

COMMISSION REGULATION (EC) No 2000/2005

of 7 December 2005

fixing the export refunds on beef and veal

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], and in particular Article 33(12) thereof,

Whereas:

(1) Article 33 of Regulation (EC) No 1254/1999 provides that the difference between prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Commission Regulations (EEC) No 32/82 [2], (EEC) No 1964/82 [3], (EEC) No 2388/84 [4], (EEC) No 2973/79 [5] and (EC) No 2051/96 [6] lay down the conditions for granting special export refunds on certain cuts of beef and veal and certain preserved beef and veal products, and the conditions for granting of assistance concerning certain destinations.

(3) It follows from applying those rules and criteria to the foreseeable situation on the market in beef and veal that the refund should be as set out below.

(4) With regard to live animals, for reasons of simplification, export refunds should not be granted for categories in which there is insignificant trade with third countries. Moreover, in the light of the general concern for animal welfare, export refunds for live animals for slaughter should be limited as much as possible.

(5) Consequently, export refunds for such animals should be granted only for third countries which, for cultural or religious reasons, traditionally import substantial numbers of animals for domestic slaughter.

(6) As to live animals for reproduction, in order to prevent any abuse, export refunds for pure-bred breeding animals should be limited to heifers and cows of no more than 30 months of age.

(7) In order to enable some Community beef and veal products to be disposed of on the international market, export refunds should be granted for certain destinations on some products under CN codes 0201, 0202 and 1602 50.

(8) The uptake of export refunds for certain categories of beef and veal products proves to be insignificant. This is also the case with regard to the uptake for certain destinations very close to the Community territory. For such categories, export refunds should no longer be fixed.

(9) The refunds provided for in this Regulation are set on the basis of the product codes as defined in the nomenclature adopted by Commission Regulation (EEC) No 3846/87 of 17 December 1987 establishing an agricultural product nomenclature for export refunds [7].

(10) The refunds on all frozen cuts should be in line with those on fresh or chilled cuts other than those from adult male bovine animals.

(11) Checks on products covered by CN code 1602 50 should be stepped up by making the granting of refunds on these products conditional on manufacture under the arrangements provided for in Article 4 of Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products [8].

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[1] OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).
[2] OJ L 4, 8.1.1982, p. 11. Regulation as last amended by Regulation (EC) No 744/2000 (OJ L 89, 11.4.2000, p. 3).
[3] OJ L 212, 21.7.1982, p. 48. Regulation as last amended by Regulation (EC) No 2772/2000 (OJ L 321, 19.12.2000, p. 35).
[4] OJ L 221, 18.8.1984, p. 28. Regulation as last amended by Regulation (EEC) No 3661/92 (OJ L 370, 19.12.1992, p. 16).
[5] OJ L 336, 29.12.1979, p. 44. Regulation as last amended by Regulation (EEC) No 3434/87 (OJ L 327, 18.11.1987, p. 7).
[6] OJ L 274, 26.10.1996, p. 18. Regulation as amended by Regulation (EC) No 2333/96 (OJ L 317, 6.12.1996, p. 13).
[7] OJ L 366, 24.12.1987, p. 1. Regulation as last amended by Regulation (EC) No 558/2005 (OJ L 94, 13.4.2005, p. 22).
[8] OJ L 62, 7.3.1980, p. 5. Regulation as last amended by Commission Regulation (EC) No 444/2003 (OJ L 67, 12.3.2003, p. 3).

(12) Refunds should be granted only on products that are allowed to move freely in the Community. Therefore, to be eligible for a refund, products should be required to bear the health mark laid down in Council Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat [1], Council Directive 77/99/EEC of 21 December 1976 on health problems affecting intra-Community trade in meat products [2] and Council Directive 94/65/EC of 14 December 1994 laying down the requirements for the production and placing on the market of minced meat and meat preparations [3].

(13) Pursuant to the third subparagraph of Article 6(2) of Regulation (EEC) No 1964/82, the special refund is to be reduced if the quantity of boned meat to be exported amounts to less than 95 %, but not less than 85 %, of the total weight of cuts produced by boning.

(14) The negotiations within the framework of the Europe Agreements between the European Community and Romania and Bulgaria aim in particular to liberalise trade in products covered by the common organisation of the market concerned. For these two countries export refunds should therefore be abolished. That abolition should not, however, lead to a differentiated refund for exports to other countries.

(15) The Management Committee for Beef and Veal has not given an opinion within the time limit set by its President,

HAS ADOPTED THIS REGULATION:

Article 1

1. The list of products on which export refunds as referred to in Article 33 of Regulation (EC) No 1254/1999 are granted, and the amount thereof and the destinations, shall be as set out in the Annex to this Regulation.

2. The products must meet the relevant health marking requirements of:

— Chapter XI of Annex I to Directive 64/433/EEC,

— Chapter VI of Annex B to Directive 77/99/EEC,

— Chapter VI of Annex I to Directive 94/65/EC.

Article 2

In the case referred to in the third subparagraph of Article 6(2) of Regulation (EEC) No 1964/82 the rate of the refund on products falling within product code 0201 30 00 9100 shall be reduced by 10 EUR/100 kg.

Article 3

The fact that no export refund is set for Romania and Bulgaria shall not be deemed to constitute a differentiation of the refund.

Article 4

This Regulation shall enter into force on 8 December 2005.

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

Done at Brussels, 7 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ 121, 29.7.1964, p. 2012/64. Directive as last amended by the 2003 Act of Accession.
[2] OJ L 26, 31.1.1977, p. 85. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).
[3] OJ L 368, 31.12.1994, p. 10. Directive as amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

ANNEX

to the Commission Regulation of 7 December 2005 fixing export refunds on beef

Product code	Destination	Unit of measurement	Refunds (7)
0102 10 10 9140	B00	EUR/100 kg live weight	37,0
0102 10 30 9140	B00	EUR/100 kg live weight	37,0
0102 90 71 9000	B11	EUR/100 kg live weight	29,5
0201 10 00 9110 (1)	B02	EUR/100 kg net weight	52,4
	B03	EUR/100 kg net weight	30,8
0201 10 00 9130 (1)	B02	EUR/100 kg net weight	69,8
	B03	EUR/100 kg net weight	41,1
0201 20 20 9110 (1)	B02	EUR/100 kg net weight	69,8
	B03	EUR/100 kg net weight	41,1
0201 20 30 9110 (1)	B02	EUR/100 kg net weight	52,4
	B03	EUR/100 kg net weight	30,8
0201 20 50 9110 (1)	B02	EUR/100 kg net weight	87,3
	B03	EUR/100 kg net weight	51,4
0201 20 50 9130 (1)	B02	EUR/100 kg net weight	52,4
	B03	EUR/100 kg net weight	30,8
0201 30 00 9050	US (3)	EUR/100 kg net weight	16,9
	CA (4)	EUR/100 kg net weight	16,9
0201 30 00 9060 (6)	B02	EUR/100 kg net weight	32,3
	B03	EUR/100 kg net weight	10,8
0201 30 00 9100 (2) (6)	B04	EUR/100 kg net weight	121,3
	B03	EUR/100 kg net weight	71,3
	EG	EUR/100 kg net weight	147,9
0201 30 00 9120 (2) (6)	B04	EUR/100 kg net weight	72,8
	B03	EUR/100 kg net weight	42,8
	EG	EUR/100 kg net weight	88,8
0202 10 00 9100	B02	EUR/100 kg net weight	23,3
	B03	EUR/100 kg net weight	7,8
0202 20 30 9000	B02	EUR/100 kg net weight	23,3
	B03	EUR/100 kg net weight	7,8
0202 20 50 9900	B02	EUR/100 kg net weight	23,3
	B03	EUR/100 kg net weight	7,8
0202 20 90 9100	B02	EUR/100 kg net weight	23,3
	B03	EUR/100 kg net weight	7,8
0202 30 90 9100	US (3)	EUR/100 kg net weight	16,9
	CA (4)	EUR/100 kg net weight	16,9
0202 30 90 9200 (6)	B02	EUR/100 kg net weight	32,3
	B03	EUR/100 kg net weight	10,8

Product code	Destination	Unit of measurement	Refunds (7)
1602 50 31 9125 (5)	B00	EUR/100 kg net weight	61,3
1602 50 31 9325 (5)	B00	EUR/100 kg net weight	54,5
1602 50 39 9125 (5)	B00	EUR/100 kg net weight	61,3
1602 50 39 9325 (5)	B00	EUR/100 kg net weight	54,5

(1) Entry under this subheading is subject to the submission of the certificate appearing in the Annex to amended Regulation (EEC) No 32/82.

(2) The refund is granted subject to compliance with the conditions laid down in amended Regulation (EEC) No 1964/82.

(3) Carried out in accordance with amended Regulation (EEC) No 2973/79.

(4) Carried out in accordance with amended Regulation (EC) No 2051/96.

(5) The refund is granted subject to compliance with the conditions laid down in amended Regulation (EEC) No 2388/84.

(6) The lean bovine meat content excluding fat is determined in accordance with the procedure described in the Annex to Commission Regulation (EEC) No 2429/86 (OJ L 210, 1.8.1986, p. 39). The term 'average content' refers to the sample quantity as defined in Article 2(1) of Regulation (EC) No 765/2002 (OJ L 117, 4.5.2002, p. 6). The sample is to be taken from that part of the consignment presenting the highest risk.

(7) Article 33(10) of amended Regulation (EC) No 1254/1999 provides that no export refunds shall be granted on products imported from third countries and re-exported to third countries.

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

The alphanumeric destination codes are set out in Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). The other destinations are defined as follows:

B00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Romania and Bulgaria.

B02: B04 and destination EG.

B03: Albania, Croatia, Bosnia and Herzegovina, Serbia, Kosovo, Montenegro, former Yugoslav Republic of Macedonia, stores and provisions (destinations referred to in Articles 36 and 45, and if appropriate in Article 44, of Commission Regulation (EC) No 800/1999, as amended (OJ L 102, 17.4.1999, p. 11)).

B04: Turkey, Ukraine, Belarus, Moldova, Russia, Georgia, Armenia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan, Morocco, Algeria, Tunisia, Libya, Lebanon, Syria, Iraq, Iran, Israel, West Bank/Gaza Strip, Jordan, Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Yemen, Pakistan, Sri Lanka, Myanmar (Burma), Thailand, Vietnam, Indonesia, Philippines, China, North Korea, Hong Kong, Sudan, Mauritania, Mali, Burkina Faso, Niger, Chad, Cape Verde, Senegal, Gambia, Guinea-Bissau, Guinea, Sierra Leone, Liberia, Côte d'Ivoire, Ghana, Togo, Benin, Nigeria, Cameroon, Central African Republic, Equatorial Guinea, São Tomé and Príncipe, Gabon, Congo, Congo (Democratic Republic), Rwanda, Burundi, Saint Helena and dependencies, Angola, Ethiopia, Eritrea, Djibouti, Somalia, Uganda, Tanzania, Seychelles and dependencies, British Indian Ocean Territory, Mozambique, Mauritius, Comoros, Mayotte, Zambia, Malawi, South Africa, Lesotho.

B11: Lebanon and Egypt.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 6 December 2005

releasing Denmark and Slovenia from certain obligations for marketing of forest reproductive material under Council Directive 1999/105/EC

(notified under document number C(2005) 4727)

(Only the Danish and Slovenian texts are authentic)

(2005/871/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material [1], and in particular Article 20 thereof,

Having regard to the requests submitted by Denmark and Slovenia,

Whereas:

(1) Under Directive 1999/105/EC the Commission may, subject to certain conditions, release a Member State from obligations for the marketing of forest reproductive material set out in that Directive.

(2) Denmark and Slovenia have applied for release from their obligations in respect of certain tree species.

(3) Since forest reproductive material of those species is not normally reproduced or marketed there and the growing of forest trees of those species is of minimal economic importance to them, Denmark and Slovenia should be released from the obligations to under Directive 1999/105/EC in respect of the species and forest reproductive material in question.

(4) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

Denmark and Slovenia are released from the obligation to apply Directive 1999/105/EC, with the exception of Article 17(1) to the species listed in the Annex to this Decision.

Article 2

This Decision is addressed to the Kingdom of Denmark and the Republic of Slovenia.

Done at Brussels, 6 December 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

[1] OJ L 11, 15.1.2000, p. 17.

ANNEX

Species	Denmark	Slovenia
Abies cephalonica	×	
Abies pinsapo	×	×
Castanea sativa	×	
Cedrus atlantica	×	×
Cedrus libani	×	×
Fraxinus angustifolia	×	
Larix sibirica	×	×
Picea sitchensis		×
Pinus brutia	×	×
Pinus canariensis	×	×
Pinus cembra	×	
Pinus contorta		×
Pinus halepensis	×	
Pinus leucodermis	×	×
Pinus pinaster	×	
Pinus pinea	×	
Pinus radiata	×	×
Quercus cerris	×	
Quercus ilex	×	
Quercus pubescens	×	
Quercus suber	×	

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 1986/2005 of 6 December 2005 on the opening of tariff quotas applicable to the importation into the Community of certain processed agricultural products originating in Romania and repealing Regulation (EC) No 2244/2004

(Official Journal of the European Union L 319 of 7 December 2005)

On page 5, the Annex is hereby replaced by the following:

'ANNEX

Quotas and duties applicable to imports into the Community of goods originating in Romania

Serial No	CN code	Description	Quota volume (tonnes)		Rate of duty applicable within the limits of the quota
(1)	(2)	(3)	(4)		(5)
			From 1.12.2005 to 31.12.2005	From 1.1.2006 to 31.12.2006	
09.5836	ex 0405	Butter and other fats and oils derived from milk; dairy spreads:	91,667	1 200	0 %
	ex 0405 20	- Dairy spreads:			
	0405 20 10	- - Of a fat content, by weight, of 39 % or more but less than 60 %:			
	0405 20 30	- - Of a fat content, by weight, of 60 % or more but less than 75 %:			
09.5838	ex 1704	Sugar confectionery (including white chocolate), not containing cocoa:			
	ex 1704 90	- Other:			
	1704 90 99	- - - - - Other	25	330	0 %
09.5840	ex 1806	Chocolate and other food preparations containing cocoa:			
	ex 1806 10	- Cocoa powder, containing added sugar or other sweetening matter:			
	1806 10 90	- - Containing 80 % or more by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose	3,667	50	0 %
09.5842	ex 1806	Chocolate and other food preparations containing cocoa:			
	ex 1806 90	- Other			
	1806 90 90	- - - Other	3,667	50	0 %
09.5845	ex 1901	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa powder or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of heading Nos 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:			
	ex 1901 90	- Other			
		- - - Other			
	1901 90 99	- - - Other	3,667	50	0 %

(1)	(2)	(3)	(4)		(5)
09.5847	ex 1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:			
	ex 1905 90	- Other:			
	1905 90 90	- - - - Other	1,833	24	0 %
09.5849	ex 2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No 2009	125	1 500	0 %
	ex 2202 90	- Other:			
		- - - Other, containing by weight of fat obtained from the products of heading Nos 0401 to 0404:			
	2202 90 91	- - - - - - Less than 0,2 %			
	2202 90 95	- - - 0,2 % or more but less than 2 %			
	2202 90 99	- - - 2 % or more			
09.5860	2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:	55	720	50 % of the MFN rate
	2205 10	- In containers holding 2 litres or less:			
	2205 10 10	- - Of an actual alcoholic strength by volume of 18 % vol. or less			
	2205 10 90	- - Of an actual alcoholic strength by volume exceeding 18 % vol.			
	2205 90	- Other:			
	2205 90 10	- - Of an actual alcoholic strength by volume of 18 % vol. or less			
	2205 90 90	- - Of an actual alcoholic strength by volume exceeding 18 % vol.			
09.5868	2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol. or higher; ethyl alcohol and other spirits, denatured, of any strength.	166,667 hl	2 000 hl	0 %
	2207 10 00	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol. or higher			
	2207 20 00	- Ethyl alcohol and other spirits, denatured, of any strength.			
09.5869	2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:	16,667	200	50 % of the MFN rate (*)
	2402 10 00	Cigars, cheroots and cigarillos, containing tobacco			
	2402 20	- Cigarettes containing tobacco:			
	2402 20 10	- Containing cloves			
	2402 20 90	- - - Other			
	2402 90 00	- Other			

(*) For the quota of 200 tonnes opened from 1 January to 31 December 2006, the rate of duty within the quota limits shall be 0 %.'