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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 953/2006

of 19 June 2006

amending Regulation (EC) No 1673/2000, as regards the processing aid for flax and hemp grown for fibre, and Regulation (EC) No 1782/2003, as regards hemp eligible for the single payment scheme

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 37(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament [1],

Whereas:

(1) Article 15(2) of Council Regulation (EC) No 1673/2000 of 27 July 2000 on the common organisation of the markets in flax and hemp grown for fibre [2] requires the Commission to present a report to the European Parliament and the Council on processing aid, if necessary accompanied by proposals. On the basis of that report, it is appropriate for the current system to remain in force up to and including the marketing year 2007/2008.

(2) The processing aid for short flax fibre and hemp fibre containing not more than 7,5 % impurities and shives applies until the 2005/2006 marketing year. Nevertheless, in view of the favourable trends on the market for this kind of fibre under the current aid scheme and in order to contribute to consolidating innovative products and their market outlets, application of this aid should be extended until the 2007/2008 marketing year.

(3) Regulation (EC) No 1673/2000 provides for an increase in the level of processing aid for long flax fibre from the 2006/2007 marketing year onwards. Since the processing aid for short fibres is maintained until the 2007/2008 marketing year, the processing aid for long flax fibre should be limited to the present level until the 2007/2008 marketing year.

(4) In order to promote the production of high-quality short flax and hemp fibres, the aid is granted to fibres containing a maximum of 7,5 % of impurities and shives. However, Member States may derogate from this limit and grant processing aid for short flax fibre containing a percentage of impurities and shives of between 7,5 % and 15 % and for hemp fibre containing a percentage of impurities and shives of between 7,5 % and 25 %. Since this possibility is open only until the 2005/2006 marketing year, it is necessary to give Member States the possibility to derogate from that limit for two more marketing years.

(5) In order to continue to ensure reasonable production levels in each Member State, it is necessary to extend the period in which the national guaranteed quantities apply.

(6) Additional aid has been supporting the continuation of traditional production of flax in certain regions of the Netherlands, Belgium and France. It is necessary to extend this transitional aid until the 2007/2008 marketing year, in order to continue enabling gradual adaptation of farm structures to the new market conditions.

(7) The Commission should submit a report to the European Parliament and the Council in sufficient time before the beginning of the 2008/2009 marketing year in order to assess whether the present system needs to be adapted or should continue.

(8) Article 52 of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers [3] provides that only hemp grown for fibre is eligible for the single payment scheme established under Title III of that Regulation. It is appropriate to make the cultivation of hemp for other industrial uses also eligible.

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[1] Not yet published in the Official Journal.

[2] OJ L 193, 29.7.2000, p. 16. Regulation as last amended by the 2005 Act of Accession.

[3] OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 319/2006 (OJ L 58, 28.2.2006, p. 32).

(9) Taking account of the yearly management of direct payments, it is appropriate that the modifications to the eligibility conditions of the single payment scheme apply from 1 January 2007.

(10) Regulations (EC) No 1673/2000 and (EC) No 1782/2003 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1673/2000 is hereby amended as follows:

1. in Article 2, paragraph 3 shall be replaced by the following:

'3. The amount of processing aid per tonne of fibre shall be fixed as follows:

(a) for long flax fibre:

— EUR 100 for the 2001/2002 marketing year,

— EUR 160 for the 2002/2003 to 2007/2008 marketing years,

— EUR 200 from the 2008/2009 marketing year onwards,

(b) for short flax fibre and hemp fibre containing not more than 7,5 % impurities and shives: EUR 90 for the 2001/2002 to 2007/2008 marketing years.

However, for the 2001/2002 to 2007/2008 marketing years, the Member State may, with reference to traditional outlets, also decide to grant aid:

— for short flax fibre containing a percentage of impurities and shives of between 7,5 % and 15 %,

— for hemp fibre containing a percentage of impurities and shives of between 7,5 % and 25 %.

In the cases provided for in the second subparagraph, the Member State shall grant the aid in respect of a quantity which amounts to not more than the quantity produced, on the basis of 7,5 % of impurities and shives.';

2. in Article 3(2), the second subparagraph shall be replaced by the following:

'The national guaranteed quantities for short flax fibre and hemp fibre shall cease to apply from the 2008/2009 marketing year.';

3. in the first paragraph of Article 4, '2005/2006' shall be replaced by '2007/2008';

4. Article 12 shall be deleted;

5. the following paragraph shall be added to Article 15:

'3. The Commission shall submit a report to the European Parliament and the Council, if necessary accompanied by proposals, in sufficient time to allow the implementation of the proposed measures during the 2008/2009 marketing year.

The report shall assess the impact of processing aid on producers, the processing industry and the market for textile fibres. It shall examine the possibility of extending processing aid for short flax fibre and hemp fibre and additional aid beyond the 2007/2008 marketing year, as well as the possibility of integrating this aid scheme in the general framework of support for farmers under the common agricultural policy laid down by Regulation (EC) No 1782/2003.'

Article 2

Article 52 of Regulation (EC) No 1782/2003 shall be replaced by the following:

'*Article 52*

Production of hemp

1. In case of production of hemp, the varieties used shall have a tetrahydrocannabinol content not exceeding 0,2 %. Member States shall establish a system for verifying the tetrahydrocannabinol content of the crops grown on at least 30 % of the areas on hemp. However, if a Member State introduces a system of prior approval for such cultivation, the minimum shall be 20 %.

2. In accordance with the procedure referred to in Article 144(2), the granting of payments shall be made subject to the use of certified seeds of certain varieties.'

Article 3

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

It shall apply as of the date of entry into force, with the exception of Article 2 which shall apply from 1 January 2007.

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

Done at Luxembourg, 19 June 2006.

For the Council
The President
J. PRÖLL

COUNCIL REGULATION (EC) No 954/2006

of 27 June 2006

imposing definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel originating in Croatia, Romania, Russia and Ukraine, repealing Council Regulations (EC) No 2320/97 and (EC) No 348/2000, terminating the interim and expiry reviews of the anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating, *inter alia*, in Russia and Romania and terminating the interim reviews of the anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating, *inter alia*, in Russia and Romania and in Croatia and Ukraine

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] ('the basic Regulation'), and in particular Articles 8, 9, 11(2) and (3) thereof,

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

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 31 March 2005, the Commission announced by a notice ('notice of initiation'), published in the *Official Journal of the European Union* [2], the initiation of an anti-dumping proceeding concerning imports into the Community of certain seamless pipes and tubes ('SPT'), of iron or steel ('extended product scope') originating in Croatia, Romania, Russia and Ukraine and the initiation of two interim reviews of the anti-dumping duties on imports of SPT of iron or non-alloy steel ('original product scope') originating, *inter alia*, in Russia and Romania and in Croatia and Ukraine.

(2) The anti-dumping proceeding was initiated following a complaint lodged on 14 February 2005 by the Defence Committee of the Seamless Steel Tube Industry of the European Union ('the complainant') on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of the extended product scope. The complaint contained evidence of dumping of the said product and of material injury resulting there from, which was considered sufficient to justify the initiation of a proceeding.

(3) The interim reviews were initiated by the Commission on its own initiative, pursuant to Article 11(3) of the basic Regulation, in order to allow for any amendment or repeal necessary for the definitive anti-dumping measures imposed by Council Regulation (EC) No 2320/97 [3] and Council Regulation (EC) No 348/2000 [4] on imports of the original product scope from, *inter alia*, Croatia, Romania, Russia and Ukraine ('the definitive measures'). The necessary amendment or repeal may arise, should it be determined that measures are to be imposed on the extended product scope, due to the fact that the products upon which measures have been imposed by Regulation (EC) No 2320/97 and Regulation (EC) No 348/2000, fall within the extended product scope.

1.2. Measures in force on the original product scope

(4) Regulation (EC) No 2320/97 imposed anti-dumping duties on imports of the original product scope originating, *inter alia*, in Romania and Russia. By Commission Decisions 97/790/EC [5] and 2000/70/EC [6], undertakings were accepted from exporters in, *inter alia*, Romania and Russia. By Council Regulation (EC) No 1322/2004 [7], it was decided to no longer apply

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).
[2] OJ C 77, 31.3.2005, p. 2.
[3] OJ L 322, 25.11.1997, p. 1. Regulation as last amended by Regulation (EC) No 1322/2004 (OJ L 246, 20.7.2004, p. 10).
[4] OJ L 45, 17.2.2000, p. 1. Regulation as last amended by Regulation (EC) No 258/2005 (OJ L 46, 17.2.2005, p. 7).
[5] OJ L 322, 25.11.1997, p. 63.
[6] OJ L 23, 28.1.2000, p. 78.
[7] OJ L 246, 20.7.2004, p. 10.

the measures in force on imports of the original product scope from Romania and Russia as a matter of prudence in connection with an anti-competitive behaviour of certain Community producers in the past (see recital (9) et seq. of that Regulation). Recital (20) of the same Regulation confirmed the interim and expiry reviews, initiated by a Notice of initiation in November 2002 ([8]), to be still ongoing until new findings would be available to permit an assessment for the future on the basis of new data that could in any event not be affected by the anti-competitive conduct.

(5) Following a review investigation carried out in accordance with Article 11(3) of the basic Regulation, the Council, by Regulation (EC) No 258/2005 ([9]), amended the definitive measures imposed by Regulation (EC) No 348/2000, repealed the possibility of exemption from the duties provided for in Article 2 of the same Regulation and imposed an anti-dumping duty of 38,8 % on imports of the original product scope from Croatia and an anti-dumping duty of 64,1 % on imports of the original product scope from Ukraine with the exception of imports from Dnepropetrovsk Tube Works ('DTW') which are subject to an anti-dumping duty of 51,9 %.

(6) By Decision 2005/133/EC ([10]), the Commission partially suspended the definitive measures for a period of nine months, with effect from 18 February 2005. The partial suspension was extended for a further period of one year by Council Regulation (EC) No 1866/2005 ([11]). Therefore, the duties in force are those established by Regulation (EC) No 348/2000, i.e. 23 % for Croatia and 38,5 % for Ukraine.

1.3. **Provisional measures**

(7) Given the need to further examine certain aspects of the investigation and also because of the interrelation with the interim and expiry reviews, referred to in section 1.2 above, it was decided to continue the investigation without the imposition of provisional measures.

1.4. **Parties concerned by the proceeding**

(8) The Commission officially advised the exporting producers in Croatia, Romania, Russia and Ukraine, the importers/traders, users, suppliers and associations known to be concerned, the representatives of the exporting countries concerned and the complainant Community producers and other Community producers known to be concerned of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit-set in the notice of initiation.

(9) In view of the large number of Russian and Ukrainian exporting producers listed in the complaint, the large number of Community importers of the product concerned and the large number of Community producers supporting the complaint, the notice of initiation envisaged the use of sampling for the determination of dumping and injury, in accordance with Article 17 of the basic Regulation.

(10) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all Russian and Ukrainian exporting producers, Community importers and Community producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the investigation period (1 January 2004 to 31 December 2004).

1.4.1. *Sampling of exporters/producers*

(11) After examination of the information submitted by the Russian and Ukrainian exporting producers and due to the fact that in both countries the majority of companies belong to large producer groups, it was decided that sampling was not necessary with regard to Russia and Ukraine.

1.4.2. *Sampling of Community industry and importers*

(12) With regard to Community producers, in accordance with Article 17 of the basic Regulation, a sample was selected based on the largest representative volume of production and sales of Community producers, which can reasonably be investigated within the time available. On the basis of the information received from Community producers, the Commission selected five companies located in four different Member States. One of the originally sampled Community producers did subsequently not cooperate and was replaced by another Community producer. In terms of production volume the five sampled companies represented 49 % of the total Community production. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection. In addition, the remaining Community producers were requested to provide certain general data for the injury analysis. In view of the small number of responses received by importers, it was decided that sampling of importers was not necessary.

([8]) OJ C 288, 23.11.2002, p. 2.
([9]) OJ L 46, 17.2.2005, p. 7.
([10]) OJ L 46, 17.2.2005, p. 46.
([11]) OJ L 300, 17.11.2005, p. 1.

1.5. **Market economy treatment/Individual treatment claim forms**

(13) In order to allow exporting producers in Ukraine to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), if they so wished, the Commission sent claim forms to the Ukrainian exporting producers known to be concerned. Claims for MET, or for IT in case the investigation establishes that they do not meet the conditions for MET, were received from three groups of exporting producers and their related companies.

1.6. **Questionnaires**

(14) The Commission sent questionnaires to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from three Romanian exporting producers together with their two related companies, two groups of Russian exporting producers together with five related companies, three of them located in the Community, and three groups of Ukrainian exporting producers and their related companies. Questionnaire replies were also received from five Community producers. Although six importers replied to the sampling form, only three cooperated by submitting a full questionnaire reply. Another importer agreed to have a verification visit carried out at its premises, despite the fact that it did not submit a questionnaire reply.

(15) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of dumping, resulting injury and Community interest. Verification visits were carried out at the premises of the following companies:

Community producers

— Dalmine S.p.A., Bergamo, Italy

— Rohrwerk Maxhütte GmbH, Sulzbach-Rosenberg, Germany

— Tubos Reunidos S.A., Amurrio, Spain

— Vallourec & Mannesmann France S.A., Boulogne Billancourt, France

— V & M Deutschland GmbH, Düsseldorf, Germany

Exporting producers in Romania

— S.C. T.M.K. — Artrom S.A., Slatina

— S.C. Silcotub S.A., Zalau

— S.C. Mittal Steel Roman S.A., Roman

Exporting producers in Russia

— Volzhsky Pipe Works Open Joint Stock Company ('Volzhsky'), Volzhsky

— Joint Stock Company Taganrog Metallurgical Works ('Tagmet'), Taganrog

— Joint Stock Company Pervouralsky Novotrubny Works ('Pervouralsky'), Pervouralsk

— Joint Stock Company Chelyabinsk Tube Rolling Plant ('Chelyabinsk'), Chelyabinsk

Related company in Russia

— CJSC Trade House TMK, Moscow

Exporting producers in Ukraine

— CJSC Nikopolsky Seamless Tubes Plant Niko Tube, Nikopol

— CJSC Nikopol Steel Pipe Plant Yutist (Yutist), Nikopol

— OJSC Dnepropetrovsk Tube Works (DTW), Dnepropetrovsk

— OJSC Nizhnedneprovsky Tube Rolling Plant (NTRP), Dnepropetrovsk

Related trader in Ukraine

— SPIG Interpipe, Dnepropetrovsk, related to NTRP and Niko Tube

Related trader in Switzerland

— SEPCO S.A., Lugano, related to NTRP and Niko Tube

Related importer

— Sinara Handel GmbH, Köln, related to Artrom

Unrelated importers

— Thyssen Krupp Energostal S.A., Torun, Poland

— Assotubi S.P.A., Cesena, Italy

— Bandini Sider S.R.L., Imola, Italy

1.7. **Investigation period**

(16) The investigation of dumping and injury covered the period from 1 January 2004 to 31 December 2004 (the 'investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2001 to the end of the IP ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(17) The product concerned is certain seamless pipes and tubes ('SPT'), of iron or steel, of circular cross-section, of an external diameter not exceeding 406,4 mm with a Carbon Equivalent Value (CEV) not exceeding 0,86 according to the International Institute of Welding (IIW) formula and chemical analysis. The product concerned is currently classified under CN codes ex 7304 10 10, ex 7304 10 30, ex 7304 21 00, ex 7304 29 11, ex 7304 31 80, ex 7304 39 58, ex 7304 39 92, ex 7304 39 93, ex 7304 51 89, ex 7304 59 92 and ex 7304 59 93 ([12]) (TARIC codes 7304 10 10 20, 7304 10 30 20, 7304 21 00 20, 7304 29 11 20, 7304 31 80 30, 7304 39 58 30, 7304 39 92 30, 7304 39 93 20, 7304 51 89 30, 7304 59 92 30 and 7304 59 93 20).

(18) The product concerned is used in a wide variety of applications, like line pipes to transport liquids, in the construction business for piling, for mechanical uses, gas tubes, boiler tubes and oil and country tubular goods ('OCTG') for drilling, casing and tubing for the oil industry.

(19) SPT take very different forms at the time of their delivery to the users. They can be e.g. galvanized, threaded, delivered as green tubes (i.e. without any heat treatment), with special ends, different cross-sections, cut to size or not. There are no generalized standard sizes for the tubes, which explains why most of the SPT are made upon customers' order. SPT are normally connected by welding. However, in particular cases they can be connected by their thread or be used alone, although they remain weldable. The investigation showed that all SPT share the same basic physical, chemical and technical characteristics and the same basic uses.

(20) The definition of the product scope of this proceeding was contested by some interested parties. Firstly, some parties alleged that some product types included in the product description have different basic mechanical and chemical characteristics (see recitals (21) to (26)). Secondly, several claims challenged the use of the weldability criterion and the CEV threshold which are linked (see recitals (27) to (36)). Furthermore, one party requested that so-called 'certified SPT' should be exempted from the product scope (see recital (37)).

Other basic physical, chemical and technical characteristics and end-uses

(21) It was alleged that some product types included in the product description, namely the OCTG and gas tubes, would have different basic mechanical and chemical characteristics and end-uses as compared to the other SPTs and would not be interchangeable.

(22) The product as defined consists in different product types. However, product types falling in different segments (including bottom end and top end) will be considered as forming a single product if there are no clear dividing lines between the various segments, *i.e.* if there is some overlapping and competition between adjoining segments. This is the case in the present proceeding, as evidence was submitted that the alloyed and non-alloy tubes subject to investigation could be used for the same end-uses, and that there are no clear dividing lines inside both the non-alloyed and the alloyed tubes categories.

(23) As regards the OCTG and gas tubes, the investigation showed that they have, *inter alia*, comparable chemical characteristics to the remaining SPT types since they fall within the 0,86 CEV threshold. Furthermore, they share other basic characteristics with the remaining product types, such as outside diameter and wall thickness.

(24) As far as the end-uses of the OCTG and gas tubes are concerned, certain exporting producers argued that OCTG and gas tubes would be used in different applications and not be interchangeable with the remaining SPT types. In this respect, it was found that plain end OCTGs currently classified under CN code 7304 21 00 and used in the construction sector are interchangeable with other non-alloy steel tubes currently classified under CN code 7304 39 58. There is therefore at least a partial overlap as regards the end-use of the different SPT types.

(25) On the basis of the above, the claim that, on the one hand, OCTG and gas tubes and, on the other hand, other SPT types are not interchangeable is rejected.

([12]) As defined in Commission Regulation (EC) No 1719/2005 of 27 October 2005 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 286, 28.10.2005, p. 1). The product coverage is determined in combining the product description in Article 1(1) and the product description of the corresponding CN codes taken together.

CEV is a chemical characteristic of the product

(26) Another exporting producer claimed that the CEV was not a chemical characteristic of the product, since it is not directly linked to the chemical composition of an SPT, but is a function of it. Whereas it is true that the CEV is the result of a formula, the formula is directly linked to the chemical composition of the product, and allows a comparison of different grades of steel regarding the weldability. The CEV is not linked either to any technical or mechanical characteristic of steel, and solely depends on its chemical composition. On this basis, it is considered that the CEV is a chemical characteristic of the product, and this claim was rejected.

Weldability being an unsuitable criterion to determine the product scope

(27) Some parties argued that the criterion of weldability as such is an irrelevant property for the product concerned since a significant part of the products included in the product scope (threaded tubes and OCTG tubes) are claimed not to be ever welded. It was therefore claimed that by using weldability as a criterion, different products were artificially being considered as one single product.

(28) It should firstly be noted that weldability is indeed a chemical and technical characteristic (since it depends on the chemical composition of a steel and determines the weldability of it) common to all SPT. As most of SPT are connected by welding, it is an essential feature for the definition of the product. Secondly, with regard to threaded tubes and OCTG which might usually not be welded, the investigation showed that they remain nevertheless weldable and thus also share this basic chemical and technical characteristic. Moreover, it cannot be excluded that threaded or threadable SPT as well as OCTG would be transformed into weldable SPT by a simple removal action. In particular as regards OCTG, there is evidence that the same tube may be classified under two different categories (and even CN codes) purely depending on its end use, i.e. usage in the construction or in the oil drilling industry. Finally, it was found that certain imports from the countries concerned which had been classified as OCTG had not been used in the oil/gas sector.

(29) An exporter submitted that according to European Norms, only one steel grade is suitable for threadable tubes, and that these products could thus be distinguished from other SPTs. However, the analysis of the different norms existing for OCTG in particular has shown that there is not a unique steel grade which can be used for producing threadable tubes.

(30) Given the above, the weldability of SPT is considered a suitable criterion to determine the product scope. The argument that the proposed definition of the product is artificially grouping different products is therefore rejected.

CEV threshold being unsuitable to determine the weldability of SPT

(31) It was claimed that the use of the CEV threshold was not a criterion allowing to define the product scope as it would not be a suitable criterion to determine the weldability of different types of SPT.

(32) The investigation showed that the CEV is indeed an indicator which is directly linked at the same time to the chemical composition of the steel and to its weldability. A high CEV not only means that the steel contains more carbon and/or alloys but also means that the steel is less easy to weld. On the other hand, a lower CEV value means that the steel is less rich in carbon and/or alloys and also easier to weld. In other words, different levels of CEV require different conditions for welding. A steel with a level of CEV of 0,86 will already require special welding conditions and therefore not normally be welded. Thus, as the CEV is an indicator of the weldability, the CEV threshold was considered a relevant criterion for the determination of the product scope.

(33) An exporting producer claimed that the CEV was only one of many chemical, technical and mechanical characteristics of the steel, and therefore could not be used alone to define the product scope. It is noted in this regard that the CEV is considered a suitable criterion to determine the product scope. Moreover, as the product definition shows, CEV is not the only criterion used. Last but not least, the comparability of product types was done on a more detailed basis, taking into account various characteristics of the product (e.g. dimensions and heat treatment).

CEV of 0,86 was set in an arbitrary manner

(34) Moreover, some interested parties alleged that the threshold CEV of 0,86 was set in an arbitrary manner as the limit for easy weldabilty would be lower than 0,86. However, the CEV value of 0,86 is not linked to the concept of easy weldability. Indeed, the complainant Community industry argued and provided evidence that it represents the maximum CEV value for a non-alloyed steel that can be used for SPT according to the European norms.

(35) Therefore, it is concluded that both the use of the CEV and the defined threshold of 0,86 capture a range of products which can be considered as a single product, albeit excluding from the definition, for instance, stainless steel or ball bearing tubes, which have CEV values higher than 0,86.

(36) On the basis of the above, the CEV threshold as proposed by the applicant was maintained in the definition of the product concerned.

'Certified SPT'

(37) One of the importers in the Community claimed that so called 'certified' SPT should not fall within the product scope. These SPT are produced according to a certified procedure approved by the Italian Ministry for Public Works and used in consolidation works in construction projects in Italy. However, it was established that all types of the product concerned, including certified SPT, had the same basic physical, chemical and technical characteristics and end-uses. No evidence was found which would have allowed to conclude that these certified tubes would be a different product and should therefore be excluded from the scope of the measures (nor did the company provide any such evidence). This claim had therefore to be rejected.

(38) On the basis of the above, it was concluded that all SPT, notwithstanding the different possible product types, constitute one product for the purpose of this proceeding because they have the same basic physical, chemical and technical characteristics and the same basic uses.

2.2. **Like product**

(39) The product exported to the Community from Croatia, Romania, Russia and Ukraine, the product produced and sold on the domestic market of these countries as well as the product produced and sold in the Community by the Community producers were found to have the same basic physical and technical and chemical characteristics as well as the same uses and are therefore considered as like products within the meaning of Article 1(4) of the basic Regulation.

3. **DUMPING**

3.1. **General methodology**

(40) The general methodology set out hereinafter has been applied to all cooperating exporting producers in Croatia, Romania, Russia, as well as for the cooperating Ukrainian exporting producers for which MET was granted. The presentation of the findings on dumping for each of the countries concerned therefore only describes what is specific for each exporting country.

3.1.1. *Normal value*

(41) In accordance with Article 2(2) of the basic Regulation, it was first examined for each cooperating exporting producer whether its domestic sales of the product concerned were representative, i.e. whether the total volume of such sales represented at least 5 % of the total export sales volume of the producer to the Community. The Commission subsequently identified those types of the product concerned sold on the domestic market by the companies having overall representative domestic sales that were identical to or directly comparable with the types sold for export to the Community.

(42) For each type sold by the exporting producers on their domestic market and found to be directly comparable with the type of the product concerned sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type of the product concerned were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type of the product concerned exported to the Community.

(43) Subsequently, it was examined whether each type of the product concerned sold domestically in representative quantities could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation, by establishing the proportion of profitable sales to independent customers on the domestic market of the product type in question.

(44) In cases where the sales volume of the relevant product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales made during the IP, irrespective of whether these sales were profitable or not. In cases where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type or where the weighted average price of that type was below the cost of production, normal

value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type. In cases where the volume of profitable sales of any product type represented less than 10 % of the total sales volume, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.

(45) Wherever domestic prices of a particular product type sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. In this regard, the Commission used constructed normal value. In accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the exporter's manufacturing costs of the exported types, adjusted where necessary, a reasonable percentage for selling, general and administrative expenses ('SG&A') and a reasonable margin of profit. Pursuant to Article 2(6) of the basic Regulation, the percentage for SG&A and profit margin were based on the average SG&A and profit margin of sales in the ordinary course of trade of the like product.

3.1.2. *Export price*

(46) In all cases where the product concerned was exported to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

(47) Where the export sale was made via related importers, the export price was constructed, pursuant to Article 2(9) of the basic Regulation, on the basis of the price at which the imported products were first resold to an independent buyer, duly adjusted for all costs incurred between importation and resale, as well as a reasonable margin for SG&A and profits. In this regard, the related importers' own SG&A costs were used. The profit margin was established on the basis of the information available from cooperating unrelated importers.

3.1.3. *Comparison*

(48) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.

3.1.4. *Dumping margin for the companies investigated*

(49) According to Article 2(11) and (12) of the basic Regulation, for each exporting producer the weighted average normal value was compared with the weighted average export price per product type.

(50) For those exporting producers found to be related companies, a weighted average dumping margin was calculated in accordance with the standard practice of the Commission for related exporting producers.

3.1.5. *Residual dumping margin*

(51) For non-cooperating companies, a residual dumping margin was determined in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

3.2. **Croatia**

3.2.1. *Non-cooperation of the Croatian exporter*

(52) The sole producer in Croatia, Mechel Željezara Ltd., went into liquidation in autumn 2004. In its place, a new legal entity named Valjaonica Cijevi Sisak d.o.o. ('VCS') was founded by the Croatian Privatisation Foundation, a governmental institution in charge of the privatisation process in Croatia.

(53) VCS informed the Commission that it was not able to cooperate in the current investigation, since its legal predecessor had formally ceased to exist and production of SPT had stopped in July 2004. According to the company, it did not have the authorisation to disclose any commercial, accounting or production data held by its previous owners. Therefore, since it was not possible to establish the dumping margin based on the company's own data, it was calculated on the basis of facts available, in accordance with Article 18 of the basic Regulation.

(54) From the information submitted it appears that VCS resumed the production of SPT in June 2005. The company may lodge a request for an interim review in accordance with Article 11(3) of the basic Regulation.

3.2.2. *Normal value*

(55) In the absence of any other information, the normal value was calculated on the basis of facts available, i.e. information in the complaint.

3.2.3. *Export price*

(56) The export price was calculated on the basis of Eurostat data for the IP.

3.2.4. *Comparison*

(57) Pursuant to Article 2(10) of the basic Regulation, adjustments were made to the export price in respect of transport and insurance costs and commissions, based on information in the complaint.

3.2.5. *Dumping margin*

(58) The dumping margin, expressed as a percentage of the CIF import price at the Community border, duty unpaid, is as follows:

Company	Dumping margin
Valjaonica Cijevi Sisak d.o.o.	29,8 %

(59) Since VCS is the sole producer of the product concerned in Croatia, the residual dumping margin was set at the same level.

3.3. **Romania**

(60) Questionnaire replies were received from three exporting producers, two of which being related to importers of the product concerned in the Community.

3.3.1. *Normal value*

(61) For all three exporting producers, the total volume of domestic sales of the like product was representative as defined in recital (41). For the majority of product types normal value was based on prices paid or payable, in the ordinary course of trade, by independent customers in Romania. However, for some product types the domestic sales were insufficient to be considered representative or they were not made in the ordinary course of trade, and therefore normal value was constructed as described in recital (45).

3.3.2. *Export price*

(62) Most of the export sales of one exporting producer to the Community during the IP were to two related importers. The export price was therefore constructed as described in recital (46).

(63) This exporter contested the calculation made by the Commission and argued that the profit margin used was excessive. It stated that the average profit margin calculated based on the figures provided by the three cooperating unrelated importers in the Community was not representative, as it never sold products to these companies. It further argued that the three companies were bigger than the importers to which it sold its products, that in the last investigation, a lower profit margin was used, and that the actual profit of the two related importers was lower than the average profit rate used by the Commission.

(64) In this respect, it should be noted that it is the Institutions' consistent practice to use the weighted average profit of unrelated importers, where warranted, for the adjustment provided for in Article 2(9) of the basic Regulation. Whether the exporter actually sold its products to these companies is not relevant in the determination of a reasonable margin for profit pursuant to Article 2(9) of the basic Regulation. Furthermore, no evidence as to how the size of importers would influence their profit rate was submitted. Finally, due to the relation between exporters and their related importers, the profit of related importers cannot be used as a basis or as a reference in this context because the level of profit of the related importer will depend on the transfer price between the related parties. This claim was therefore rejected.

(65) A substantial part of the export sales of another exporting producer to the Community was to two companies, one being related to the exporter and one having been related to it during part of the IP. The latter did not cooperate in the investigation, and its resale price to independent customers in the Community was thus not submitted to the Commission. The only export prices available for those transactions to the related importer having been related to the exporter during part of the IP were the prices agreed between the exporter and its related importer. It was established that those prices were equivalent to arm's length prices. Indeed, a price comparison between the period during

which the two companies were related and the period within which they were not related any longer showed that there were no significant differences in the unit prices charged. Moreover, the prices charged to this related importer were compared with prices charged to unrelated customers in the EC and they were found in line. The export price was thus based, for those transactions, on the sales price of the Romanian exporting producer to its related trading company.

(66) As regards the transactions to the other related company, which cooperated in the investigation, it was found that the product concerned was further transformed by the related company before it was resold in the Community. In that case, no resale price of the product concerned to an independent customer in the Community could be determined. However, sufficient evidence was found that the transfer price between the Romanian exporting producer and its related company in the Community could be considered as equivalent to an arm's length price, provided that, pursuant to Article 2(10)(d)(i) of the basic Regulation, an adjustment for level of trade for those original equipment manufacturer (OEM) sales were made. Indeed, a comparison was made between the prices charged for all models to the related importer and to unrelated importers. Therefore, the export price was based on the transfer price.

(67) The investigation showed that the export sales of the third exporting producer were made directly to unrelated customers in the Community. Therefore, the export price was established on the basis of export prices actually paid or payable for the product concerned when sold to the first independent customer in the Community as described in recital (46).

(68) This exporting producer requested that part of the sales of the product concerned to the Community should be excluded from the dumping calculation on the grounds that the production of certain models of SPT had been stopped at some point during the IP. However, as explained above, it is the Institution's practice to take normally into account all sales of the product concerned to unrelated parties in the weighted average export price. It should also be noted that sales of those types of the product concerned occurred during the IP in important volumes and that in addition it was found that the production facilities for those types of SPT had not been dismantled and could be started again in the future. Given the above, the claim was rejected.

3.3.3. *Comparison*

(69) Adjustments were made, where appropriate, in accordance with Article 2(10) of the basic Regulation, in respect of discounts for differences in quantities, transport, insurance, handling, loading, and ancillary costs, credit, commissions, and differences in level of trade.

(70) One exporting producer claimed adjustments for differences in level of trade, for extra logistics costs which were allegedly incurred for domestic sales and not for export sales and for differences in quantities. However, the exporter did not substantiate the claims nor did the investigation otherwise establish that these claims were warranted. Therefore, they had to be rejected. The claim for differences in quantities was partially rejected insofar as the amount claimed could not be justified with the evidence collected on the spot and the information provided in the exporting producer's questionnaire response.

(71) Another exporting producer claimed adjustments for differences in inflation, currency conversions, level of trade and differences in indirect selling expenses.

(72) With regard to the claim for an adjustment for the inflation, it should be noted that the inflation rate in Romania was at a level of 10,8 % during the investigation period, far from hyperinflation level. As it was not found that price comparability had been affected, the claim was rejected. The exporter objected to this conclusion and reiterated its claim for an allowance. However, no new argument or evidence rebutting the preliminary conclusion was submitted and it is confirmed that the claim is rejected. It should also be noted that the possibility of a quarterly assessment was envisaged, but declined by the exporter.

(73) As regards currency conversions, the exporting producer claimed that it should be granted a period of 60 days to reflect movements in the currency exchange rates, under the provision of Article 2(10)(j) of the basic Regulation. It was found that this provision cannot be applied in this case, as evidence was found that no sustained movement in the relevant currency exchange rates occurred during the IP, but merely fluctuations of a small amplitude. Therefore, this claim had to be rejected, and the conversion of currencies was based in all cases on the rate at the date of invoice, as provided for by Article 2(10)(j) of the basic Regulation.

(74) As regards the claim for differences in level of trade, the investigation showed that for certain categories of customers, for which the claim was made, consistent and distinct differences in functions and prices existed at the level claimed by the exporting producer. The claim was therefore accepted as regards the categories of customers for which the differences could be demonstrated, and only partially accepted as regards the other categories of customers for which the difference was found to be lower than claimed by the exporting producer. In the latter case, the calculation of the adjustment was based on the evidence collected at the premises of the exporting producer.

(75) As regards the claim for difference in indirect selling expenses, it was found redundant with the adjustments granted for differences in level of trade, and it was therefore rejected.

(76) Furthermore, following the comments received from exporters, some clerical mistakes were corrected, and dumping margins were recalculated accordingly.

3.3.4. *Dumping margin*

(77) The comparison between the normal value and the export price showed the existence of dumping. The dumping margins expressed as a percentage of the CIF import price at the Community border, duty unpaid, are the following:

Company	Dumping margin
S.C. T.M.K. — Artrom S.A.	17,8 %
S.C. Mittal Steel Roman S.A.	17,7 %
S.C. Silcotub S.A.	11,7 %

(78) Since the level of cooperation was high (more than 80 % of the exports of the product concerned from Romania to the Community) and there was no reason to believe that any exporting producer deliberately abstained from cooperation, the residual dumping margin applicable to all other exporters in Romania was set at the same level as the one established for the cooperating exporting producer S.C. Artrom S.A., namely 17,8 %.

3.4. **Russia**

(79) Questionnaire replies were received from two groups of exporting producers, one of which consists of four producers and five related companies ('TMK group') and the other one of two producers ('Pervouralsky and Chelyabinsk').

3.4.1. *Non-cooperation of TMK Group*

(80) The questionnaire replies of all four producers and the five related companies were significantly deficient and inconsistent, and except for two related companies, no replies were received by the deadline given for completing the questionnaire replies.

(81) On-spot verifications were carried out at two of the four producers and one related company in Russia but these revealed further weaknesses of the questionnaire replies. Regarding the two producers visited, no reliable normal value and export prices could be established since both domestic and export sales listings were largely deficient; values and quantities did not correspond with invoices and product control numbers ('PCNs') were found to be wrong. Furthermore, no reliable cost of production data could be obtained.

(82) Given this entirely unsatisfactory cooperation of the two producers visited, the highly deficient questionnaire replies of the two remaining producers of the group, in particular the fact that one producer did not provide any sales listings, and the fact that no replies were provided to the deficiency letters of the Commission by the given deadline, it was decided not to carry out verification visits at the other two producers of the group.

(83) Only two of the three related importers provided a more comprehensive questionnaire reply, of which only one was verifiable whereas the resale listing of the other related importer was largely deficient. Therefore, even the related importers only cooperated partially, and to a very poor degree indeed.

(84) The TMK group claimed that they could not properly cooperate because of the choice of the PCN, which in their opinion was inadequate given the very diversified production range of the four producers. It should be noted, however, that the classification of the product concerned into the proposed PCN structure did not cause any problems to either the Community producers or other exporting producers, some of which also produce a large variety of SPT. The claim was therefore rejected.

(85) In view of the above, it was considered that the dumping margin for the TMK Group could not be established on the basis of their own data. The dumping margin was therefore determined on the basis of facts available, in accordance with Article 18 of the basic Regulation.

3.4.1.1. Normal value

(86) In this case, it was found that the normal value information established for Pervouralsky and Chelyabinsk would constitute the most appropriate facts available, pursuant to Article 18 of the basic Regulation. Indeed, this information seemed to reflect best the situation on the Russian market.

(87) Pursuant to Article 2(5) of the basic Regulation the price of gas used for the calculation of cost of production in the complaint was adjusted in the same manner as for the two cooperating producers, as described below in recitals (94) to (99) to reflect market prices for gas during the IP.

3.4.1.2. Export price

(88) The export price was calculated on the basis of Eurostat data for the IP, reduced by the quantities and values obtained from the two cooperating producers listed infra in recital (91).

3.4.1.3. Comparison

(89) Pursuant to Article 2(10) of the basic Regulation, adjustments were made to the export price in respect of transport and insurance costs and commissions, based on information in the complaint.

3.4.1.4. Dumping margin

(90) The comparison between the normal value and the export price showed the existence of dumping. The dumping margin expressed as a percentage of the CIF import price at the Community border, duty unpaid, is the following:

Company	Dumping margin
Volzhsky Pipe Works Open Joint Stock Company, Joint Stock Company Taganrog Metallurgical Works, Sinarsky Pipe Works Open Joint Stock Company and Seversky Tube Works Open Joint Stock Company	35,8 %

3.4.2. *Pervouralsky and Chelyabinsk*

(91) Chelyabinsk and Pervouralsky were separate legal entities during the IP, but since the end of 2004 they are related as Chelyabinsk owns the majority of shares in Pervouralsky, and directly controls the company. Therefore, only one duty should be imposed on the group.

3.4.2.1. Normal value

(92) For both exporting producers, domestic sales of the product were representative as defined in recital (41). In accordance with the methodology described in recitals (42) to (45), normal values were established, depending on the product type exported, on the basis of sales prices of all sales, of sales prices of profitable sales only or on the basis of constructed normal values.

(93) It was found that the cost allocation of the company for certain individual product types did neither reflect the large variation in domestic sales prices, nor the important cost drivers. Thus, it had to be considered as unreliable. Therefore facts available were used as set out in Article 18 of the basic Regulation. In this case, a profit for the whole group had to be calculated based on all sales of the product concerned which was subsequently used for the determination of normal values.

(94) With regard to the manufacturing costs, and in particular energy costs, it was found during the investigation that electricity prices paid by both companies reasonably reflected the actual production costs of the electricity purchased. This was evidenced in this case by the fact that the electricity prices were in line with international market prices, when compared to countries like Norway and Canada, which also rely on hydroelectricity. However, the same could not be said with regard to gas prices. Indeed it was found that the gas prices paid by both companies did not reasonably reflect the costs of gas.

(95) It was established on the basis of data found in the Russian gas provider OAO Gazprom's published annual report for 2004, that the domestic price of gas paid by the two Russian producers was much lower than the average export prices from Russia to both Western and Eastern parts of Europe. The same report states: 'Gazprom Group is required to supply natural gas to Russian consumers at prices regulated by the Federal Tariff Service. As of now these prices are lower than the international prices for natural gas.' and further: 'OAO Gazprom together with the Russian Federation carry out a lot of work to optimize the regulated gas wholesale prices'. Moreover, the price of gas paid by the two Russian producers was significantly lower than the gas price paid by the Romanian and Community producers.

(96) In view of the above, it was considered that the gas prices paid by the two Russian SPT producers in the investigation period could not reasonably reflect the costs associated with the production and distribution of gas.

(97) Therefore, as provided for in Article 2(5) of the basic Regulation, the gas costs of the two Russian exporting producers were adjusted to reflect market prices for gas during the IP, based on the price of gas for export to Western Europe, net of transport costs and excise duty.

(98) Both producers argued that the costs of gas were properly reflected in their accounting records and that an adjustment in accordance with Article 2(5) of the basic Regulation was not warranted. In this regard, it is not disputed that the companies had correctly accounted for the prices paid to their gas provider. However, the adjustment is justified by the fact that the price of the gas purchased does not reasonably reflect the cost of production and distribution of gas.

(99) The two producers further claimed that it had not been proven that prices charged by Gazprom to industrial users are below cost-recovery levels. However, several publicly available sources confirm the approach of the Commission, among them the policy brief 'The Economic Survey of the Russian Federation, 2004', published by OECD in July 2004.

3.4.2.2. Export price

(100) All export sales to the Community were made directly to independent customers and therefore the export price was established as set out in recital (46).

3.4.2.3. Comparison

(101) Adjustments were made, in accordance with Article 2(10) of the basic Regulation, in respect of transport, handling, loading, and ancillary costs, packing and commissions.

3.4.2.4. Dumping margin

(102) The comparison between the normal value and the export price showed the existence of dumping. The dumping margin expressed as a percentage of the CIF import price at the Community border, duty unpaid, is the following:

Company	Dumping margin
Joint Stock Company Chelyabinsk Tube Rolling Plant and Joint Stock Company Pervouralsky Novotrubny Works	24,1 %

3.4.3. *Conclusion on dumping regarding Russia*

(103) Since the companies mentioned in recital (79) represent all export sales from Russia to the Community, the residual dumping margin was set at the same level as the one established for the non-cooperating group of exporting producers, namely 35,8 %.

3.5. **Ukraine**

3.5.1. *MET*

(104) At the time of initiation of this investigation, Article 2(7)(b) of the basic Regulation was applicable to Ukraine. This Article stated that the procedure in anti-dumping investigations, concerning imports originating in Ukraine, was that normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.

(105) Briefly, and for ease of reference only, these criteria, fulfilment of which the applicant companies have to demonstrate, are set out in summarised form below:

— Business decisions are made in response to market signals, without significant State interference, and cost reflect market values,

— Firms have one clear set of basic accounting records which are independently audited, in line with international accounting standards and are applied for all purposes,

— There are no significant distortions carried over from the former non-market economy system,

— Legal certainty and stability is guaranteed by bankruptcy and property laws,

— Exchange rate conversions are carried out at the market rate.

(106) Three groups of Ukrainian exporting producers requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form for exporting producers.

(107) The Commission sought and verified at the premises of these companies all necessary information submitted in their MET applications.

(108) The investigation showed that the three groups of Ukrainian exporting producers mentioned above fulfilled all the criteria required and they were therefore granted MET.

(109) The Community industry was given the opportunity to comment and objected that several of the five criteria set out in Article 2(7)(c) of the basic Regulation were not met by all exporting producers. More specifically, the Community industry argued that (i) the State might take back control of certain of the privatised exporting producers; (ii) the State intervened in their day-to-day decisions; (iii) the regulations and laws in force in Ukraine during the IP as regards labour, bankruptcy and property did not guarantee proper market economy conditions; and (iv) State intervention took place with regard to export sales price and costs of inputs. The comments of the Community industry were duly taken into account.

(110) However, these comments did not provide sufficient evidence that any of the five criteria against which the Ukrainian exporting producers' claims for MET was analysed pursuant to Article 2(7)(c) of the basic Regulation as described above was not fulfilled. Indeed, the investigation showed that no significant interference of the State was taking place in the companies' business decisions.

(111) In this respect, it can be recalled that partial State ownership is not as such, according to the Commission's practice, sufficient grounds to consider that criterion 1 of Article 2(7)(c) of the basic Regulation is not fulfilled.

(112) It was also found that the costs of the main inputs reflected market values.

(113) As regards gas and electricity prices, they were found to be in line with average prices in Ukraine, although lower than the prices in Europe and other markets. This was not deemed to be sufficient grounds, however, to consider that criterion 1 was not fulfilled, since gas and electricity only represent a relatively minor part of the cost of production of SPT and since these prices, in so far as they were found to be distorted, have been adjusted to market prices for the purpose of the dumping calculation (see recitals (119) to (127)).

(114) Furthermore, the investigation showed that the laws in force in Ukraine with regard to employment and labour conditions were in line with market economy principles. In particular, it was found that the three groups of exporting producers were free to hire or dismiss their staff.

(115) Similarly, no argument brought forward by the Community industry was able to rebut the conclusion of the Commission that bankruptcy and property laws guaranteed proper market economy conditions for the three groups of exporters.

(116) There was therefore no reason not to grant MET to the three groups of Ukrainian exporting producers. The Advisory Committee was consulted and did not object to the conclusions of the Commission.

3.5.2. *Dumping calculation*

(117) Questionnaire replies were received from three groups of exporting producers. One group consists of two producers and two related traders, whereas another group consists of one producer and two related traders, whilst the latter exporting producer has no related company involved in the production or sale of the product concerned.

3.5.3. *Normal value*

(118) For all three groups of exporting producers, the total volume of domestic sales of the like product was representative as defined in recital (41). For part of the product types normal value was based on prices paid or payable, in the ordinary course of trade, by independent customers in Ukraine, and for the product types for which the domestic sales were insufficient to be considered representative or they were not made in the ordinary course of trade, normal value was constructed as described in recital (45).

(119) With regard to the manufacturing costs, and in particular energy costs, it was found during the investigation that energy prices paid by the three groups of companies were regulated by the State and significantly lower than international prices.

(120) The prices charged by the Ukrainian State-owned and/or State-regulated suppliers of electricity to the three groups of exporting producers were compared to prices in Romania as well as to prices in the Community for the same general category of electricity users. In all cases, these prices were found to be considerably lower than the prices in Romania and in the Community, and it was concluded that the electricity prices paid by the Ukrainian exporters did not reasonably reflect the actual production and sale costs of the electricity purchased.

(121) The three cooperating Ukrainian exporters opposed to these conclusions and submitted that the costs reported in their accounting records reflected the price actually paid to their suppliers of electricity. However, none of the arguments put forward could explain the differences found with prices in Romania and average prices in the Community, and the conclusions above were confirmed.

(122) The same approach was followed as regards gas prices. A comparison showed that gas prices charged to Ukrainian exporters by their State-owned and/or State-regulated suppliers were around half the prices in Romania and also considerably lower than average prices charged in the Community for gas to the same general category of customers.

(123) During the IP, Ukraine got a major part of its supplies of gas from Russia. OAO Gazprom's stated in its annual report 2004 that: 'As it supplied gas to CIS states, OAO "Gazprom" pursued its main strategic objective of providing environment for unimpeded transit of Russian gas to Europe through and their territory' and further that: 'In the reporting year 84,9 % of the total amount of gas supplied to Ukraine […] was treated as payment for transit services'. The export price of gas from Russia to Ukraine could therefore not serve as a proper basis for comparison to determine whether the gas prices paid by the Ukrainian exporters reflected the cost associated with the production and sale of the gas purchased, since this export price may well have been influenced by the barter trade agreement.

(124) Moreover, the prices paid by Ukrainian exporting producers were compared to the average export price from Russia to Western and Eastern Europe, as determined above, as well as to average gas prices in North America, which were determined using Nymex Henry Hub index for gas. In both cases they were found considerably lower.

(125) Given the above, it was concluded that the gas prices paid by the Ukrainian exporting producers, which were in direct relation with the export price declared by OAO Gazprom for exports to Ukraine and which was found to be very likely influenced by an existing barter trade agreement, did not reasonably reflect the costs associated with production and sale of the gas purchased.

(126) Again the three cooperating Ukrainian exporters opposed to these conclusions and submitted that the costs reported in their accounting records reflected the price actually paid to their suppliers of gas. However, the arguments put forward were not able to rebut the conclusions above, insofar as the price of the gas supplied by Russia to Ukraine was significantly affected by an agreement in place during the IP concerning the transit of gas through Ukraine, as confirmed by the annual report for 2004 of 'OAO Gazprom'.

(127) Therefore, as provided for in Article 2(5) of the basic Regulation, the electricity and gas costs of the Ukrainian exporting producers were adjusted to reasonably reflect the costs associated with the production and sale of electricity and gas during the IP. The adjustment was based on an average of the prices observed during the IP in Romania, a market-economy country which also imports gas from Russia, and is roughly the same distance from the Russian gas fields. The average price for Romania was based on the verified data collected at Romanian exporting producers of the product concerned. It has to be noted that this average price is not significantly different from the average gas export price determined above for Russia.

(128) One exporter claimed that the profit margin used for the construction of the normal value was different from the average profit made by this exporter on sales on the domestic market, and too high. This claim had to be rejected as the profit used in constructing normal value was the one calculated in accordance with the applicable provision, i.e. the first sentence of Article 2(6) of the basic Regulation. In other words, the profit margin used equalled the profit margin pertaining to production and sales, in the ordinary course of trade, of the like product on the Ukrainian domestic market. It was calculated based on the information which was submitted by the company in its questionnaire response and could be verified.

3.5.4. *Export price*

(129) Two groups of exporting producers made the vast majority of their export sales via a related trading company located in a third country. The export price for those two groups of exporting producers was established on the basis of the related trading companies' resale prices to the first independent customers in the Community, except for the few transactions which corresponded to direct sales of those exporting producers to independent customers in the Community. In the latter case, the export price was determined as the price actually paid or payable for the product when sold for export from Ukraine to the Community.

(130) Another exporting producer made all its sales to independent customers in the Community, and the export price was therefore established, as described in recital (46), on the price actually paid or payable for the product when sold for export from Ukraine to the Community.

3.5.5. *Comparison*

(131) Adjustments were made, where appropriate, in accordance with Article 2(10) of the basic Regulation, in respect of discounts for transport, insurance, handling, loading, and ancillary costs, credit, and commissions.

(132) For the two groups of exporting producers which channelled most of their sales through related traders, an adjustment to the export price for a commission was made in accordance with Article 2(10)(i) of the basic Regulation, in the cases where sales were made through these related traders, as these related traders had functions similar to those of an agent working on a commission basis. The level of the commission was calculated based on direct evidence pointing to the existence of such functions. In this context, in the calculation of the commission, the SGA expenses incurred by the related traders to sell the product concerned produced by Ukrainian producers were taken into account, as well as a reasonable profit margin. This latter was based on a weighted average of the profit margins for sales of like products to unrelated customers found for the three unrelated importers in the Community which cooperated with the investigation and submitted information which was verified.

(133) The two groups of exporters contested the calculation made by the Commission and argued that the profit margin used in this adjustment was excessive. One group of exporters alleged that one of the unrelated importers imported and resold only one type of tubes, which was not sold in the EC by the Ukrainian exporter. Moreover, both groups of exporters stated that the average profit margin calculated based on the figures provided by the three cooperating unrelated importers in the Community was not reasonable, since the weighted average profit margin found was higher than the target profit of the Community industry.

(134) In this respect, it should be noted that the assertion that the profit margin used to base this adjustment was higher than the target profit of the Community industry is not relevant. Both profit margins are established in a different context and serve different purposes. In addition, it does not prove that the profit margin used is not reasonable. In the present case, it should be reminded that the profit margin used was based on verified information submitted by cooperating companies and pertaining to the IP. Furthermore, no evidence as to how the types of the like products sold by these cooperating companies would have biased the calculation of the profit margin was provided. Under these circumstances, the adjustment, pursuant to Article 2(10)(i), for sales made via the related trading companies, is maintained.

(135) Furthermore, following the comments received from exporters, some clerical mistakes were corrected, and dumping margins were recalculated accordingly.

3.5.6. *Dumping margin*

(136) The comparison between the normal value and the export price showed the existence of dumping. The dumping margins expressed as a percentage of the CIF import price at the Community border, duty unpaid, are the following:

Company	Dumping margin
OJSC Dnepropetrovsk Tube Works	12,3 %
CJSC Nikopolsky Seamless Tubes Plant Niko Tube and OJSC Nizhnedneprovsky Tube Rolling Plant	25,1 %
CJSC Nikopol Steel Pipe Plant Yutist	25,7 %

(137) Since the level of cooperation was high (more than 80 % of the exports of the product concerned from Ukraine to the Community), and there was no reason to believe that any exporting producer deliberately abstained from cooperation, the residual margin applicable to all other exporters in Ukraine was set at the same level as the one established for the cooperating exporting producer CJSC Nikopol Steel Pipe Plant Yutist, namely 25,7 %.

4. **INJURY**

4.1. **Community production**

(138) Within the Community the product concerned is known to be manufactured by eight producers on behalf of which the complaint was lodged. They are located in Germany, Italy, Spain, France and Austria and represent 62 % of the Community production which amounted to 2 618 771 tonnes during the IP.

(139) Furthermore, there were at initiation stage 12 known Community producers which were not complainants located in the UK, Poland, Czech Republic, Sweden, Italy and Slovakia. Other Community producers which had not been known at initiation stage mainly located in the new Member States were also contacted. Only two of these producers submitted basic information concerning the production and sales of the like product for the period under consideration. On this basis, the Community production of the like product amounted to 2 618 771 tonnes in the IP.

4.2. **Community industry**

(140) The following Community producers supported the complaint:

— Dalmine S.p.A., Bergamo, Italy

— Rohrwerk Maxhütte GmbH, Sulzbach-Rosenberg, Germany

— Tubos Reunidos S.A., Amurrio, Spain

— Vallourec & Mannesmann France S.A, Boulogne Billancourt, France

— V&M Deutschland GmbH, Düsseldorf, Germany

— Voest Alpine Tubulars GmbH, Kinderberg-Aumuehl, Austria

(141) As these six complainant cooperating Community producers represent 57 % of the Community production of the product concerned, they constitute the Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation.

(142) It is noted that one of the complaining producers (Dalmine) is related to one of the cooperating Romanian exporting producers (Silcotub) and imported the product concerned from the latter. It has been verified that these imports were, however, limited in comparison to the production volume of Dalmine and mainly to complement its product range. It was therefore concluded that this relationship was not such as to exclude this Community producer from the definition of the Community industry.

4.3. **Community consumption**

(143) The Community consumption was established on the basis of the sales volumes on the Community market of the five sampled Community producers and by all other producers in the Community which submitted such information plus imports from all third countries under the relevant CN codes according to Eurostat.

(144) On the basis of these data, it was found that over the period considered, consumption decreased by 8 % from 2 149 024 tonnes 2001 to 1 985 361 tonnes in 2004. First, consumption decreased considerably by 14 % in 2002 compared to 2001 and remained stable in 2003 after which it picked up again in 2004, when it amounted to 1 985 361 tonnes. Consumption of SPT is related to the overall economic cycle and in particular to developments in the oil and gas sector. The increase of consumption in the IP could be explained by the fact that high oil and gas prices in 2004 encouraged investments in these sectors and therefore increased the demand for certain STP.

Table 1

	2001	2002	2003	2004 (IP)
Community consumption (tonnes)	2 149 024	1 855 723	1 851 502	1 985 361
Index	100	86	86	92

4.4. **Imports of SPT from the countries concerned**

Cumulation

(145) The Commission considered whether the effects of imports of SPT originating in Croatia, Ukraine, Romania and Russia should be assessed cumulatively in accordance with Article 3(4) of the basic Regulation.

Margin of dumping and volume of imports

(146) As indicated above, the present investigation has shown that average dumping margins established for each of the four countries concerned are above the *de minimis* threshold as defined in Article 9(3) of the basic Regulation, and that the volume of imports from each of these countries is not negligible in the sense of Article 5(7) of the basic Regulation (their respective market shares attaining 1,3 % for Croatia, 4,3 % for Romania, 4,6 % for Ukraine and 11,3 % for Russia in the IP).

Conditions of competition

(147) Import volumes increased from all countries concerned, except from Ukraine which maintained its imports on a high level over the period considered. Price trends of imports are similar for all countries concerned, undercutting significantly the prices of the Community industry. The average price levels of the imports of the countries concerned were all significantly below the Community industry price level. Import prices from Croatia, Ukraine and Romania were broadly at the same level. Russia had significantly lower price levels which may, however, be the result of a different product mix exported to the Community. As mentioned above, it has been established that the product concerned imported from the four countries and the like product produced and sold by the Community industry share the same basic technical, physical and chemical characteristics and end-uses. In addition, all products were sold via similar sales channels to the same customers and were found to be competing with each other.

(148) On the basis of the above, it was concluded that all conditions justifying the cumulation of imports of SPT originating in the four countries concerned by the investigation were met.

(149) Some exporting producers in Ukraine and Romania argued that imports from their countries should not be cumulated to those of the other countries under investigation for the injury and causation analysis since trends in import volumes were different. In this respect, it is noted that the import trends are only one of the many parameters which are examined in this context. The fact that the import levels from the various countries are not identical, is not as such a reason to de-cumulate. Indeed, in recital (147), the similarities between the imports from the four countries subject to investigation have been described. On this basis, and in the absence of any further indications concerning a lack of competition, it is not possible to distinguish the effect of the imports from these four countries simply on the basis of the respective volume trends. On the contrary, the similarities described above warrant a cumulative assessment.

(150) In the present case, it was found for all four countries, including Ukraine and Romania, that the imported products on the one hand and the Community produced products on the other hand shared the same basic physical and/or chemical characteristics (see recital (39) concerning the like product). Moreover, imports from each of the four countries were significant, i.e. above the negligibility threshold defined in Article 5(7) of the basic Regulation. In this respect, it is noted that imports from Ukraine and Romania represented a market share of more than 4,5 % and 4,3 % respectively. Finally, and in addition to the arguments stated above, imports from all four countries were significantly undercutting the prices from the Community industry (from 22 to 43 %), Ukrainian and Romanian imports undercutting by 36 % and 22 % the Community industry prices (see below). On the basis of the above, it is concluded that all conditions are met for the cumulation of imports from the four countries under investigation for the purpose of injury and causation analysis. The claim for de-cumulation had therefore to be rejected.

Cumulated volume and market share

(151) Imports from the four countries concerned increased from 304 268 tonnes in 2001 to 426 186 tonnes in the IP. The combined market share increased from 14,2 % in 2001 to 21,5 % during the IP. This has to be seen against the background of a declining consumption.

Table 2

	2001	2002	2003	2004 (IP)
Imports (tonnes)	304 268	307 441	342 626	426 186
Index	100	101	113	140
Market share	14,2 %	16,6 %	18,5 %	21,5 %

Prices

(152) The weighted average price of imports of SPT originating in the four countries increased by 16 %, i.e. from EUR 433 per tonne to EUR 501 per tonne between 2001 and the IP. Between 2001 and 2002 prices initially slightly decreased by 3 % from EUR 433 to EUR 418 and dropped further in 2003 to EUR 397, after which they sharply increased to EUR 501, i.e. a significantly higher level than in 2001. The price increase in the IP can mainly be linked to the increase in the cost of raw materials in the IP.

Table 3

	2001	2002	2003	2004 (IP)
Weighted average CIF Community frontier price (EUR/tonne)	433	418	397	501
Index	100	97	92	116

Undercutting

(153) For the determination of price undercutting, the Commission analysed data referring to the IP. The relevant sales prices of the Community industry were those to independent customers, adjusted where necessary to an ex-works level, i.e. excluding freight costs in the Community and after deduction of discounts and rebates. Prices for the different types of SPT defined in the questionnaires were compared with the sales prices charged by the exporters, net of discounts, and adjusted, where necessary, to CIF Community frontier with an appropriate adjustment for the anti-dumping duties and post-importation costs.

(154) For the calculation of weighted average undercutting margins, export prices of cooperating producers and Eurostat data were taken into consideration. During the IP, the weighted average undercutting margin was 43 % for Russia, 36 % for Ukraine, 22 % for Romania and 26 % for Croatia.

4.5. **Situation of the Community industry**

(155) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all economic factors having a bearing on the state of the Community industry during the period considered.

Production

(156) The production volume showed a similar trend to that of consumption, although the decline during 2002 and 2003 and recovery during the IP was more pronounced in relative terms than the decline and recovery of consumption during the same periods. It sharply declined by 21 %, from 1 495 278 tonnes in 2001 to 1 174 414 tonnes in 2002. In 2003, the production volume reached only three quarters of the volume produced in 2001. However, in line with the improved demand situation resulting from the investment activity in the oil and gas industry during the IP, the production volume increased again and reached 1 290 258 tonnes in the IP.

Table 4

	2001	2002	2003	2004 (IP)
Production (tonnes)	1 495 278	1 174 414	1 126 188	1 290 258
Index	100	79	75	86

Capacity of production and capacity utilisation rates

(157) The production capacity was established on the basis of the nominal capacity of the production units owned by the Community industry, taking into account interruptions in production as well as the fact that in certain cases part of the capacity had been used for other products manufactured with the same production lines.

(158) SPT production capacity has remained stable during the period considered. However, capacity utilisation rates diminished by 12 percentage points from 87 % to 75 %, as a result of the decrease in the production volume. The increase of capacity utilisation during the IP is a result of the increased production volume in the IP against the background of a stable production capacity.

Table 5

	2001	2002	2003	2004 (IP)
Capacity of production (tonnes)	1 722 350	1 717 919	1 709 605	1 709 078
Index	100	100	99	99
Capacity utilisation	87 %	68 %	66 %	75 %

Stocks

(159) As far as stocks are concerned, the vast majority of production is made in response to orders. Therefore, whilst an increase in stocks of 13 % was observed over the period considered, it is considered that in this case stocks were not a relevant indicator of injury.

Table 6

	2001	2002	2003	2004 (IP)
Stocks (tonnes)	95 032	100 471	90 979	107 521
Index	100	106	96	113

Investments

(160) Between 2001 and the IP, investments for the production of the like product diminished from EUR 66 852 644 to EUR 26 101 700 and were only made to maintain production capacity at its current level and not with the purpose to increase the production volume.

Table 7

	2001	2002	2003	IP
Investments (EUR)	66 852 644	56 581 829	45 518 515	26 101 700
Index	100	85	68	39

Sales and market share

(161) It was found that sales of the Community industry to related customers were made at market prices and therefore those sales were also taken into consideration for the analysis of sales and market share of the Community industry.

(162) SPT sales in volume on the Community market decreased from 862 054 tonnes in 2001 to 725 145 tonnes in 2002, i.e. by 16 %, and further to 683 985 tonnes in 2003, where demand was exceptionally low according to the Community industry. During the IP, sales picked up again and reached 729 555 tonnes, which is still considerably lower than the level of 2001.

(163) Whereas overall SPT sales in volume on the Community market decreased from 2001 to the IP by 15 %, at the same time, Community consumption decreased by only 8 % and hence the Community industry experienced a loss of market share amounting to 3 percentage points. The market share dropped from 40,1 % in 2001 to 36,7 % in the IP.

Table 8

	2001	2002	2003	IP
Sales in the EC (tonnes)	862 054	725 145	683 985	729 555
Index	100	84	79	85
Market share	40,1 %	39,1 %	36,9 %	36,7 %

Prices

(164) The Community industry's average unit selling price increased by 10 % over the period considered as a result of the increased cost of raw material, which impacted the whole industry.

(165) After a 4 % increase in average prices from EUR 672 in 2001 to EUR 701 in 2002, prices hit rock bottom at EUR 651 in 2003, after which they considerably increased again in the IP when they reached EUR 736.

(166) Depending on the production process, the Community industry either used scrap or billets and ingots as raw material for the production of SPT. The raw material is the major cost driving component in the production cost of SPT and has a direct impact on the sales price evolution. Whereas in 2001 and 2002 raw material accounted for 35 % of the full production cost of SPT of the Community industry and for 38 % in 2003, during the IP the cost for raw material represented already 47 % of full cost.

(167) Indeed, it was found that average prices of raw materials went up sharply during 2004, which was reflected in the higher sales prices of the Community industry and higher import prices alike.

Table 9

	2001	2002	2003	IP
Weighted average price (EUR/tonne)	672	701	651	736
Index	100	104	97	110

Profitability and cash flow

(168) During the period considered the weighted average profitability on net turnover of the Community industry decreased sharply from 3 % in 2001 to – 10 % in the IP. The trend in profitability does not develop in line with the trend in sales value. Profitability of the product concerned was indeed more negative during the IP than in any of the three preceding years, whereas sales actually increased in the IP compared to the levels in 2002 and 2003. The reason for this development is that the increase in raw material prices could not be completely reflected in sales prices. Indeed, the increased costs of raw materials could not be passed on to the end customers due to the low price level of imports from the countries concerned.

Table 10

	2001	2002	2003	IP
Pre-tax profit margin	3 %	– 9 %	– 5 %	– 10 %

(169) The Community industry generated a negative cash flow of EUR – 16 735 140 during the IP. The liquidity of the Community industry turned very negative in 2003, after which the cash flow situation somewhat improved, but still remained far from re-gaining a positive level. Cash flow had to be calculated on the basis of the net profit before tax for the product sold in and outside the Community which was positive in 2002 (EUR 26 million) but turned into a major net loss in 2003 (minus 86 million) which explains the massive drop in cash flow between 2002 and 2003. The trend in cash flow did not evolve in line with the trend in profitability as depreciation, which is typically high for this capital intensive industry, declined between 2002 and 2003 from EUR 51 795 853 to EUR 48 276 850, but increased again in the IP to EUR 58 820 712. However, the cash flow situation remained negative during the IP.

Table 11

	2001	2002	2003	IP
Cash flow (EUR)	68 221 405	83 464 355	– 35 612 924	– 16 735 140
Index	100	122	– 52	– 25

Return on net assets

(170) The return on net assets was calculated by expressing the pre-tax net profit of the like product sold in and outside the Community as a percentage of the net book value of fixed assets allocated to the like product sold in and outside the EC. The negative evolution of this indicator after 2001 is caused, on the one hand, by the declining investments in the like product from 2001 to the IP, and, on the other hand, by the pre-tax profit of the like product sold in and outside the Community, which was still positive in 2001 and 2002, but turned negative in 2003. Return on assets albeit improving in the IP compared to 2003, it still only reached – 11 % during the IP. The profit figure used for determining this factor was the profit obtained both of the Community industry's domestic sales and export sales. This was necessary because the assets were used for both sales channels and an allocation to the assets was impossible.

Table 12

	2001	2002	2003	IP
Return on net assets	10 %	6 %	– 18 %	– 11 %

Ability to raise capital

(171) With the exception of one company, there was no claim from the Community industry nor indication that the Community industry encountered problems to raise capital for its activities and it was therefore concluded that the Community industry, as a whole, was in a position to raise capital for its activities throughout the period considered.

Employment and wages

(172) Employment in the Community industry decreased by 13 % and labour cost declined by 9 % during the period considered.

Table 13

	2001	2002	2003	IP
Employees	6 058	5 424	5 276	5 245
Index	100	90	87	87
Labour cost (EUR/year)	275 296 896	251 059 144	244 153 692	249 190 971
Index	100	91	89	91

Productivity

(173) Productivity measured in output (production) per employee per year amounted to the same level in the IP as in 2001, after a decrease in 2002 and 2003.

Table 14

	2001	2002	2003	IP
Productivity (tonnes/employee)	247	217	213	246
Index	100	88	86	100

Growth

(174) While Community consumption decreased by 8 % between 2001 and the IP, the sales volume of the Community industry to unrelated and related customers decreased by 15 %. On the other hand, the market share of imports from the four countries concerned went up by 7,3 percentage points. Thus, sales by the Community industry declined much more sharply than the demand during the period considered.

Magnitude of the dumping margin and recovery from past dumping

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

(176) As demonstrated in the analysis of the injury indicators above, the economic and financial situation of the Community industry did not improve further to the imposition of anti-dumping measures on imports of parts of the product concerned from Russia and Romania in 1997 and from Croatia and Ukraine in February 2000. They also evidence that the Community is still in a fragile and vulnerable situation.

4.6. **Conclusion on injury**

(177) The analysis of the injury indicators revealed that the situation of the Community industry deteriorated significantly after 2001 and reached rock bottom in 2003. During the IP, the injury indicators showed an improvement compared to the extremely bad situation in 2003. The improved situation in the IP can be linked to a generally better market situation in the IP and in particular to the higher demand for SPT products by the oil and gas industries. However, the Community industry was by far not able to get back to the level of 2001, i.e. prior to the increase of dumped imports. In this respect, it is noted that the increase of sales prices observed in the IP was not even sufficient to fully reflect the increased costs of raw materials, let alone to improve the situation of the Community industry.

(178) It is true that at first sight some injury indicators showed a stable (ability to raise capital, employment) or even positive (average sales prices) development. However, most other injury indicators (e.g. profitability, investments, production and sales volumes) showed a clear negative evolution over the period considered, albeit slightly improving during the IP as compared to the preceding year. However, this improvement does not change the picture as the most relevant injury indicators remain negative.

(179) As far as the positive development in prices is concerned, the price increase during the IP cannot be attributed to an improvement of the situation of the Community industry, but was a mere consequence of the increased prices of raw materials. Moreover, the above factors showing a stable development do not determine the overall state of the Community industry. Indeed, given the vastly negative development of the profit-related indicators, the viability of the industry is even at stake if — in the medium term if not before — this situation is not remedied.

(180) Following the disclosure of definitive findings, some exporting producers argued that the Community industry was not suffering from material injury during the IP. It was claimed that publicly available data suggested that the Community industry was in a sound financial situation and that sales and profitability of the Community industry showed a positive trend during the IP.

(181) It is noted that annual financial results of some Community producers were indeed positive during the IP, sales volumes increased and profitable results were achieved. However, whereas the overall financial situation of some Community producers in the IP has in fact been favourable, the relevant analysis must be based on the financial performance of the Community industry with regard to the production and sales in the Community market of the like product. As the like product does not account for the entire production volume of the Community industry neither of their entire sales in the Community, it was found that despite the overall good performance of some Community producers of SPT, material injury existed as far as the like product sold in the Community was concerned.

(182) In the light of the foregoing, it is concluded that the Community industry has suffered material injury within the meaning of Article 3(6) of the basic Regulation.

5. CAUSATION

5.1. Introduction

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

5.2. Effect of the dumped imports

(184) Imports from the four countries concerned increased considerably during the period considered, i.e. by 40 % in terms of volume, and by 7,3 percentage points in terms of market share. At the same time, average prices of imports originating in the four countries concerned undercut the average Community industry prices by 32 % in the IP. The price increase of the dumped imports noticed during the IP merely reflected the increase of costs of raw materials. The substantial increase in the volume of imports of the four countries concerned and their gain in market share during the period under consideration, at prices which remained well below those of the Community industry, coincided with the evident deterioration of the overall financial situation of the Community industry during the same period.

(185) Unit prices of the Community industry also increased over the period under consideration by 10 %. However, these prices were depressed and could not even cover the massive increase of cost of raw materials as evidenced by the significant level of losses incurred by the Community industry.

(186) Based on the above considerations, it would appear that the low-priced imports from the four countries concerned have had a determining role in the deterioration of the situation of the Community industry, which is reflected in particular in the insufficient development of sales prices as well as in the decrease of production, sales volumes, market share, and in the sharp decrease of profitability and diminishing investments.

5.3. Effect of other factors

Decrease in the EC consumption

(187) Community consumption decreased by 8 % during the period considered. However, the decrease in consumption in itself cannot be considered as the determining cause of the injurious situation of the Community industry as sales of the Community industry declined in relative terms more than consumption during the period considered (respectively − 16 % and − 14 % between 2001 and the end of the IP). Moreover, it was shown that imports from the countries concerned increased in the period considered and were thus taking over the Community industry's lost market share. For these reasons, it was found that the decrease of consumption could not have been a substantial cause of the injury suffered by the Community industry.

Imports originating in third countries other than the four countries concerned

(188) According to Eurostat and to the information collected during the investigation, the main third countries from which SPT are imported are Japan, Argentina and the USA.

(189) Imports from Japan amounted to 52 960 tonnes in 2001 and decreased by 34 % to 34 857 tonnes over the period considered. The market share of Japanese imports of the product concerned amounted to 2,5 % in 2001, which declined to 1,8 % in the IP. Japanese imports were made at prices which at least doubled those of the Community industry. Hence imports from Japan were not considered as having had a negative effect on the situation of the Community industry.

(190) Imports from Argentina increased by 52 %, from 30 962 tonnes in 2001 to 46 918 tonnes in the IP. This corresponds to a market share which increased by one percentage point from 1,4 % in 2001 to 2,4 % in the IP. The price level of imports from Argentina remained throughout the period considered well above the one of the four countries considered, e.g. in the IP the average CIF price per tonne of imports from Argentina amounted to EUR 660, whereas the weighted average CIF price of the four countries concerned was EUR 501 per tonne. In the course of the analysis the fact that one Community producer is related to an exporting producer located in Argentina has been taken into consideration. It was, however, demonstrated that the SPT imported by this Community producer from its related company in Argentina, were neither in terms of quantities nor prices a determining reason for the injurious situation of this particular Community producer and of the Community imports were industry as a whole.

(191) As to the USA, Eurostat statistics show that the market share of imports of SPT from the USA increased from 0,6 % in 2001 to 1,8 % in the IP. Average selling prices of US at the beginning of the period under consideration at EUR 2 414 per tonne, i.e. almost four times higher than those of the Community industry and subsequently decreased hugely by 77 % to EUR 797 per tonne during the IP, still exceeding the Community industry's prices by 8 %. Therefore, despite the increased imports from the USA, given their price level, they cannot be considered as a substantial cause of the injury suffered by the Community industry.

(192) It was claimed that imports from Argentina and United States have been steadily increasing since 2001 and that their combined market share exceeded 4 % in the IP and that US prices remained below those charged by exporting producers in three out of the four countries concerned.

(193) The allegation that US prices were lower than those charged by three out of the four countries concerned is not borne out by the facts. More generally, it was concluded that in particular in view of their high price levels, these imports cannot be regarded as a determining cause of the injury.

(194) One exporting producer claimed that the Community industry was primarily active in the production and sales of high end product categories (OCTGs) which would compete with imports from Japan, Argentina and the United States. It was argued that imports from these three countries combined represented an increase of market share of 1,5 percentage points between 2001 and the IP and that imports from these three countries were replacing SPT produced by the Community industry rather than SPT imported from Russia and Ukraine.

(195) It is pointed out that the Community industry despite more putting more emphasis on the production of high end added value products, continues producing all different types of SPT, including low end products in substantial quantities. As a matter of fact, OCTGs only represent a small share of the Community industry's activities, namely 5 % of the total sales volume and 7 % of the total sales value of the like product sold on the Community market during the IP. The increase of the combined market share of Japan, Argentina and the United States by 1,5 percentage points from 4,5 % in 2001 to 6,0 % in the IP can, if at all, only be linked to a minor degree to the more pronounced loss of market share of the Community industry during the same period, i.e. from 40,1 % to 36,7 %. Consequently, the claim that imports of these three countries caused material injury to the Community industry has to be rejected.

(196) One exporting producer claimed that the Commission services omitted to take into account the impact of SPT imports from the new Member States. Mainly for Slovakia, it was argued that these imports were previously found to have been made into the EC at injurious dumped prices. Such imports were subject to anti-dumping duties which lapsed as a result of enlargement in the middle of the IP. It was also claimed that such imports were the cause of the loss in market share of the Community industry.

(197) However, it is noted that sales volume from the Community industry and from other European producers (including Slovakia) decreased respectively by around 133 000 tonnes and by 112 000 tonnes between 2001 and 2004, whereas, at the same time, the imports from the four countries concerned increased by around 120 000 tonnes ([13]).

(198) As to the imports from Slovakia before enlargement, it cannot be claimed that such imports could cause injurious dumping to the Community Industry for the period 2001 until enlargement (i.e. 1st May 2004) since they were subject to anti-dumping duties re-establishing a level playing field with the Community Industry. Any possible effect of these sales inside the EU-25 as from 1st of May is not considered such as to reverse the injury findings or break the causal link between the dumped imports from the four countries under investigation and the injury suffered by the Community Industry. Indeed, an analysis of imports of the product concerned from Slovakia into the Community market before and after enlargement based on Eurostat showed that in the year of accession, these imports of the product concerned in the rest of the Community market (EU-24) increased by 7 % or 5 911 tonnes compared to the year before accession. This increase in volume is very small as compared to the development of imports from the four countries concerned.

(199) Given the above, it is concluded that the market share of the Community industry did not diminish as a result of intra-Community competition.

(200) Therefore, the claim that intra-community competition could be the cause of the decrease of loss of market share of the Community industry is hereby rejected.

Market cyclicality and exchange rates

(201) In reaction to the disclosure of definitive findings, one exporting producer stated that the factor of cyclicality of the steel market had not be taken into account as required by Article 3(7) of the basic Regulation.

(202) In this respect it is noted that the exporting producer did not submit any evidence to substantiate the claim that the cyclicality of the steel market has caused the injurious situation of the Community industry. In addition, it is noted that the cyclicality of the steel market should have an impact on the Community industry and exporting producers alike. Hence, a downward cycle in the SPT market which allegedly had a negative impact on the state of the Community industry should have also had a negative impact on the volume of SPT imports, i.e. import volumes from the four countries concerned should have decreased. However, as described in recital (151), cumulated import volumes of the four countries concerned increased every single year from 2001 to 2004. Therefore, it is concluded that the cyclicality of the steel market cannot be considered as having caused the injury suffered by the Community industry.

(203) One company claimed that the fall in the value of the USD versus the EUR from 2001 to the IP had an impact on the situation of the Community industry without providing any evidence that these exchange rate fluctuations actually had a negative impact on the performance of the Community industry. In the absence of any substantiated information showing that the injury situation of the Community industry has been influenced by a appreciation of the EUR against the USD, it is concluded that exchange rate fluctuation did not break the causal link between dumped imports and the injurious situation of the Community industry. Moreover, the analysis of the Community industry was based on the financial performance of the like product produced and sold in the Community market. As the vast majority of sales of the like product in the Community market was invoiced in EUR and as all major production expenses were also primarily made in EUR, exchange rate fluctuations did in any case not have a major impact on the injurious situation of the Community industry.

(204) In view of the above described evolution of volumes, price and market shares of imports originating in other third countries, it is concluded that the material injury suffered by the Community industry cannot be attributed to these imports.

Increase of raw material prices

(205) It has been claimed by two exporting producers that the decrease in profitability was a result of the rise in raw material cost and could therefore not be linked with dumped imports from the countries concerned. Indeed, the cost for scrap or billets which are the main raw materials for the production of SPT increased significantly over the period considered. It was evidenced by two Community producers that the price of scrap increased between the last quarter of 2003 and the last quarter of the IP by 66 % and 77 % respectively. One Community producer demonstrated that over the whole period considered, from 2001 until the IP, the scrap price more than doubled from EUR 99 per tonne in 2001 to EUR 253 per tonne in the IP. A similar price trend could be observed with regard to average prices of billets.

([13]) Note that consumption went down by 165 000 tonnes between 2001 and 2004.

(206) However, material injury to the Community industry was not caused by the increased raw material prices as such, but as explained in recital (168), by the fact that the Community industry was unable to pass on these higher costs to the customers. Indeed, due to the dumped imports from the countries concerned which substantially undercut the Community industry's prices, the Community industry could not increase its sales prices to an amount which would have duly reflected the increase of raw material prices.

(207) Following the disclosure of definitive findings, one exporting producer claimed that it was incorrect to state that profitability decreased in the IP because Community producers were unable, due to the price pressure from dumped imports, to increase prices at such levels as to cover the increase in raw materials. According to this company, the price of raw materials (scrap) in the IP increased by 15,8 %. It was argued that prices of dumped imports increased in excess of the increase of the costs of raw materials.

(208) However, as mentioned above, evidence obtained in the course of the investigation showed that the cost increase of raw material of the Community producers was far higher than the alleged 15,8 % during the IP. Based on the information provided by some Community producers, it was also found that the increase in raw material prices exceeded the increase of the weighted average price of SPT from the four countries concerned throughout the period considered. Therefore, the argument is maintained that due to the price pressure from dumped imports, the Community producers were unable to increase prices and render sales profitable.

Anti-competitive behaviour of certain Community producers

(209) Anti-dumping measures in force since 1997 on the original product scope concerning Romania and Russia are no longer applied since July 2004 as a matter of prudence in connection with an anti-competitive behaviour of certain Community producers in the past.

(210) Some exporting producers and importers requested that the extent to which the cartel formed by certain Community producers could have had an impact on the performance of the overall Community industry be investigated.

(211) In this regard, it was found that there was no overlap in time between the duration of the infringement of some Community producers (1990 until 1995 and, for certain products, until 1999) and the period considered (2001 until 2004) of the present anti-dumping proceeding. Moreover, no information has been found during the investigation that prices of the Community industry or other injury indicators were influenced by any anti-competitive behaviour Given the above, and in the absence of any information or indication to the contrary, it can be concluded that the cartel formed by certain Community producers before 2001 did not have an effect on the injurious situation of the Community industry during the period considered.

(212) Following the disclosure of definitive finding, one exporting producer claimed that the Commission services failed to examine the likely effects of recovery to normal competitive conditions of the Community industry following the end of the cartel behaviour in 1999. It was argued that the overlap in time of the cartel behaviour and the period under consideration of the present proceeding was irrelevant and that the Commission services had erred in its assessment with respect to the analysis of injury and causality and may have violated Article 3(7) of the basic Regulation.

(213) Firstly, it is underlined that only a small part of the product concerned, namely OCTGs (classified under CN 7304 21 00 20 and CN 7304 29 11 20) was concerned by the cartel proceeding. During the IP, the volume of OCTGs sold in the Community market represented only 5 % of the total sales volume of the Community industry.

(214) Moreover, it is considered that the two years period between the end of the cartel behaviour and the beginning of the period used for the injury determination is sufficient as to have allowed for a return to normal competitive conditions for the Community industry. However, the situation during the IP was injurious.

(215) Given the above, this claim is rejected.

5.4. **Conclusion on causation**

(216) The coincidence in time between, on the one hand, the increase in dumped imports from the countries concerned, the increase in market shares and the undercutting found and, on the other hand, the evident deterioration in the situation of the Community industry, leads to the conclusion that the dumped imports caused the material injury suffered by the Community industry within the meaning of Article 3(6) of the basic Regulation.

6. COMMUNITY INTEREST

(217) In accordance with Article 21 of the basic Regulation, it has to be examined whether, despite the conclusion on injurious dumping, compelling reasons exist for concluding that it is not in the Community interest to adopt measures in this particular case. The likely impact of possible measures on all parties involved in the proceeding and also the consequences of not taking measures have to be considered in this respect.

6.1. Community industry

(218) The injurious situation of the Community industry resulted from its difficulty to compete with the low-priced, dumped imports.

(219) It is considered that the imposition of measures will enable the Community industry to increase the volume of its sales and market share and thereby generating better economies of scale and thus the necessary profit level to justify continued investment in its production facilities.

(220) Should measures not be imposed, the deterioration of the situation of the Community industry would continue. It would not be able to invest in new production capacity and to compete effectively with imports from third countries. Some companies would have to cease the production of the like product and lay off their employees. It is therefore concluded that the imposition of anti-dumping measures is in the interest of the Community industry.

(221) One non-complainant producer in the Community which is related to an exporting producer in Romania claimed that producers in the Community would already work at full production capacity and would not be able to meet the high demand for SPT on the Community market and in third countries. The company argued that consequently the imposition of duties would lead to a shortage of supply on the Community market. However, as stated above, the investigation revealed that throughout the period considered, the Community industry had significant spare production capacity which could be used in the future to produce the product concerned in order to meet the demand for SPT on the Community market.

(222) It was also claimed that the imposition of measures would result in a limitation of competition on the Community market. It is noted that besides the complaining producers, there are several significant other producers of the product concerned in the new Member States as mentioned in recital (139). The number of producers in the Community is considered such as to ensure competition within this market, even with the imposition of anti-dumping measures. Furthermore, as mentioned in recitals (188) to (195), producers in other third countries (e.g. in the USA) are also competing with the Community industry with similar products and prices. Therefore it is considered that the imposition of measures will neither jeopardize the supply of SPT nor restrict competition on the Community market.

6.2. Interest of unrelated importers

(223) As far as importers are concerned, only three unrelated importers replied to the questionnaire and a verification visit was subsequently carried out to two of them. A fourth unrelated importer accepted a verification visit at a late stage in the proceeding. The volumes of the product concerned imported by these four importers represented 8 % of the total imports in the Community and 3 % of the Community consumption.

(224) In view of the fact that the majority of all imports of SPT into the Community is channelled through importers which are related to exporting producers and less than half of all imports enter the Community market through unrelated importers, the imports of the four unrelated importers can be considered as representative for all other unrelated importers.

(225) For one of the importers, imports of the product concerned represented 22 % of its total imports of SPT and the corresponding sales value represented 3 % of its total turnover during the IP. These sales were highly profitable during the IP. Taking into account that the majority of suppliers of this company are located in the Community or in countries not concerned by the imposition of anti-dumping duties, the impact of the imposition of anti-dumping measures cannot be considered as significant.

(226) A second importer whose main activity consisted in importing and transforming SPT, imported all SPT from the countries concerned, in particular from Russia. A small part of these imports consisted of so-called 'certified tubes' It is thus considered that an imposition of duties on imports from Russia will have a negative impact on the overall business activity and particularly on the profitability of this company. However, taking into consideration that there is currently besides

this importer only one other supplier of certified SPT in the Community, it is very likely that any price increase due to the anti-dumping duty on this product can be passed on to the final customer. Furthermore, the company would also be able to source at least a part of its purchases from a local supplier in the Community or to substitute part of their purchases with other products than the product concerned.

(227) The other two cooperating importers whose import volumes represented also only a minor share of the total import volume of the product concerned during the IP considered themselves as not affected by an imposition of duties.

(228) In the light of the above, it is considered that importers would be affected differently by the imposition of anti-dumping measures depending on their individual situation. It can thus be concluded that the imposition of measures may indeed possibly have a significant negative effect on the financial situation of one importer. On average however, it is not expected that measures have a significant financial impact on the overall situation of the importers.

6.3. **Interest of users**

(229) No user of the product concerned replied to the questionnaire sent by the Commission. However, the investigation showed that SPT are used mainly by construction and oil companies. According to the information available, SPT are part of larger projects (boilers, pipelines, construction) of which they form only a limited part. Therefore, it was concluded that the impact on costs resulting from the imposition of anti-dumping measures on SPT would very likely not result in a significant impact in the costs of such users, and thus giving a possible explanation to the lack of cooperation of users in the present proceeding.

(230) On the basis of the above findings, and in the absence of any other element or reaction from consumer organisations, it is concluded that the impact of the proposed measures on the consumers is likely to be marginal.

(231) Therefore, it is concluded that there are no compelling reasons on the grounds of Community interest, why anti-dumping duties should not be imposed.

7. **DEFINITIVE ANTI-DUMPING MEASURES**

7.1. **Injury elimination level**

(232) In order to prevent further injury being caused by the dumped imports, it is considered appropriate to adopt anti-dumping measures.

(233) The measures should be imposed at a level sufficient to eliminate the injury caused by these imports without exceeding the dumping margin found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs of production and to obtain overall a profit before tax that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on the sales of the like product in the Community. Taking into account the average level of profitability obtained by the Community industry in 2001, it was found that a profit margin of 3 % of turnover could be regarded as an appropriate minimum which the Community industry could have expected to obtain in the absence of injurious dumping. The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the price undercutting calculations, with the non-injurious price of products sold by the Community industry on the Community market. The non-injurious price has been obtained by adjusting the sales price of the Community industry by the actual loss/profit made during the IP and by adding the above mentioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total CIF import value.

7.2. **Definitive measures**

(234) In the light of the foregoing, it is considered that in accordance with the Article 9 of the basic Regulation, definitive anti-dumping measures on imports of the product concerned should be imposed at the level of the lowest of the dumping and the injury margins found, in accordance with the lesser duty rule.

(235) As the injury elimination levels are higher than the dumping margins established, the definitive measures should be based on the latter. The residual dumping margins were set at the level for the company with the highest individual margin in each country.

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

Country	Company	Rate of duty (%)
Croatia	All companies	29,8 %
Romania	S.C. T.M.K. — Artrom S.A.	17,8 %
	S.C. Mittal Steel Roman S.A.	17,7 %
	S.C. Silcotub S.A.	11,7 %
	All other companies	17,8 %
Russia	Joint Stock Company Chelyabinsk Tube Rolling Plant and Joint Stock Company Pervouralsky Novotrubny Works	24,1 %
	All other companies	35,8 %
Ukraine	OJSC Dnepropetrovsk Tube Works	12,3 %
	CJSC Nikopolsky Seamless Tubes Plant Niko Tube and OJSC Nizhnedneprovsky Tube Rolling Plant	25,1 %
	CJSC Nikopol Steel Pipe Plant Yutist	25,7 %
	All other companies	25,7 %

(237) The individual company specific anti-dumping duties specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during the investigation with respect to these companies. These duties (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name, included entities related to those specifically mentioned, cannot benefit from these duties and shall be subject to the duties applicable to 'all other companies'.

(238) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission [14] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. If warranted, the appropriate arrangements will be made, including by updating the list of companies benefiting from individual duty rates. In order to ensure a proper enforcement of the anti-dumping duty, the country-wide 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.

(239) As far as the identification of the CEV threshold by Custom authorities at the Community border is concerned, the identification of the CEV can be done indirectly through the verification of the 11 CN codes under which the product concerned is classified. Throughout the period considered, 99,9 % of all imports of the product concerned were SPT with a CEV below the 0,86 threshold. Therefore, it was concluded that all SPT imports from the countries concerned under the 11 CN codes should be considered as the product concerned, except in those very rare cases when the importer is able to demonstrate that the CEV of the goods imported exceeds the 0,86 threshold.

7.3. **Exemption request**

(240) One importer who imported so-called 'certified SPT' in the Community suggested that his company should be excluded from the application of the anti-dumping duty. However, the company has not invoked any reasons on the basis of which such an individual exemption would be justified. It should be noted that this importer was importing dumped SPT which caused injury to the Community industry and that there was therefore no reason to grant any individual exemption to this company. Furthermore, it was considered that exempting this importer from the anti-dumping duties would constitute an inappropriate high risk of circumvention of the measures. Indeed, since also certified tubes can be used in a variety of applications, it could not be sufficiently ensured that these imports would only be used in construction works in Italy.

[14] European Commission
Directorate-General Trade
B-1049 Brussels/Belgium.

7.4. **Partial suspension request**

(241) Following the disclosure of definitive findings, one importer requested a nine-month (extendable for a further period of 12 months) partial suspension of the duties on certain imports of the product concerned, produced by the Russian exporting producer TMK, classified under CN code 7304 39 92 and certified by the Italian Ministry of Labour for utilisation in public construction works in Italy.

(242) The importer argued that a partial suspension would be justified on grounds of Community interest according to Article 14(4) of the basic Regulation. It was claimed that without the partial suspension of measures the importer would stop importing certified tubes and consequently only one single company producing certified SPT would be left in Italy which would hence constitute a monopoly.

(243) The importer claimed that the partial suspension of measures would not cause any injury to the alleged single Community producer whose production volume of certified SPT allegedly only covers approximately two thirds of the annual demand of certified SPT in Italy. The importer argued further that a partial suspension of the measures could be easily monitored by Italian customs through a simple verification of the certification documents which have to be presented to customs at each import transaction.

(244) As far as the argument is concerned that the non-partial suspension of measures would create a monopoly in the Community market, it is noted that whereas during the IP two producer existed in Italy producing certified SPT since the end of 2005 there is indeed only one company left. However, it could be shown that during the IP dumped imports of certified tubes from Russia undercut prices of certified tubes produced by the Community industry to such extent that the Community producers were not able to compete with these dumped imports and consequently had to cease or sharply reduce the production of certified SPT. As the fact that only one Community producer of certified SPT remained in the Community market was actually a consequence of dumped imports of certified SPT from Russia, the argument that partially suspending the duties would not cause any injury to the Community industry has to be rejected. On the contrary, it is expected that the imposition of duties will lead to an increase of competition and the re-entry of other Community producers of certified tubes in the Community market.

(245) Whereas it is acknowledged that the monitoring of the partial suspension could in principle be feasible by customs authorities in Italy, the requested partial suspension has also to be rejected on the same grounds as the exemption request mentioned before in recital (240). Granting a partial suspension of measures for one individual importer would constitute an inappropriate high risk of circumvention, as certified SPT imported by this company could also be used for other purposes than in construction works in Italy.

7.5. **Undertakings**

(246) The same importer suggested that an undertaking should be accepted from its supplying Russian exporting producer. The undertaking should set a duty free import volume with a quantitative ceiling. The importer argued that imports up to such quantity would be used solely in public construction projects in Italy. Therefore, these imports would not cause any injury to Community industry. Furthermore, there would be insufficient supply of certified SPT in the Community. However, it should be noted that in accordance with Article 8(1) of the basic Regulation only exporting producers can offer undertakings, but not importers. Therefore, this request was rejected.

(247) Following the disclosure of essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties, the majority of exporting producers in the countries concerned offered price undertakings in accordance with Article 8(1) of the basic Regulation.

(248) However, the product concerned is characterised by a considerable number of product types with some characteristics not easily discernible upon importation. This makes it virtually impossible to establish minimum prices for each product type which would be meaningful and could be properly monitored by the Commission and by the customs authorities of the Member States upon importation. Moreover, the product concerned has shown in the last years a considerable volatility in prices and therefore it is not suitable for a fixed price undertaking for an extended period of time. The volatility in prices is due to the volatility of raw material prices, namely metal billets, ingots or steel scrap, which constitute major but variant components of the cost of production. If the minimum import prices were indexed to the price of one of the raw materials, different indexing formulae would have to be established by sub-product group making the determination of the parameters of indexation formulae and the monitoring of the undertakings extremely complex.

(249) In addition, it is recalled that undertakings were accepted in the past for certain products falling within the product scope of the current investigation. Those undertakings that were based on the principle that prices per product group would fall in line with the price structure in use in the Community proved to be very difficult to monitor by the Commission or were found to have failed to raise prices to non-injurious levels that would restore fair trade on the Community market ([15]).

(250) Moreover, in a number of cases the product classification proposed was not sufficiently detailed to allow a proper monitoring, or the price level proposed did not allow for the removal of injurious dumping.

(251) In view of the above, in particular the difficulties in monitoring the different minimum import prices, it is considered that undertakings are not workable in principle. However, given the upcoming accession of Romania to the Community, the duration of the measures against Romania will be limited in time. Therefore, the risk of circumvention of the minimum import prices by the Romanian exporters is limited and so is the potential for significant changes of the prices. Accordingly the Commission by its Decision 2006/441/EC of 23 June 2006 ([16]) accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of certain seamless pipes and tubes, of iron or steel, originating, *inter alia*, in Romania, accepted the undertaking offers of the Romanian exporting producers. The reasons for accepting this undertaking are set out in more detail in this Regulation. The Commission recognises that the undertaking offers eliminate the injurious effect of dumping and limit to a significant degree the risk of circumvention.

(252) To further enable the Commission and the customs authorities to effectively monitor the compliance of the companies with the undertakings, when the request for release for free circulation is presented to the relevant customs authority, exemption from the anti-dumping duty is to be conditional on (i) the presentation of an undertaking invoice, which is a commercial invoice containing at least the elements listed and the declaration stipulated in the Annex; (ii) the fact that imported goods are manufactured, shipped and invoiced directly by the said companies to the first independent customer in the Community; and (iii) the fact that the goods declared and presented to customs correspond precisely to the description on the undertaking invoice. Where the above conditions are not met the appropriate anti-dumping duty shall be incurred at the time of acceptance of the declaration for release into free circulation.

(253) Whenever the Commission withdraws, pursuant to Article 8(9) of the basic Regulation, its acceptance of an undertaking following a breach by referring to particular transactions and declares the relevant undertaking invoices as invalid, a customs debt shall be incurred at the time of acceptance of the declaration for release into free circulation of these transactions.

(254) Importers should be aware that a customs debt may be incurred, as a normal trade risk, at the time of acceptance of the declaration for release into free circulation as described in recitals (252) and (253) even if an undertaking offered by the manufacturer from whom they were buying, directly or indirectly, had been accepted by the Commission.

(255) Pursuant to Article 14(7) of the basic Regulation, customs authorities should inform the Commission immediately whenever indications of a violation of the undertaking are found.

(256) For the reasons stated above the undertakings offered by the Romanian exporting producers are therefore considered acceptable by the Commission and the companies concerned have been informed of the essential facts, considerations and obligations upon which acceptance is based. However, for the reasons stated above the undertakings offered by the Russian and Ukrainian exporting producers are not acceptable.

(257) It should be noted that in the event of a breach or withdrawal of the undertaking or a suspected breach, an anti-dumping duty may be imposed, pursuant to Articles 8(9) and (10) of the basic Regulation.

7.6. **Conclusion regarding the two interim reviews and existing measures**

(258) It is recalled that, as mentioned in recital (3), two interim reviews were initiated on the Commission's own initiative, to allow for any amendment or repeal of the existing definitive anti-dumping measures in force on imports of the original product scope from Croatia, Romania, Russia and Ukraine.

([15]) See recital (137) of Regulation (EC) No 258/2005.
([16]) See p. 81 of this Official Journal.

(259) On the basis of the findings of the present investigation, measures should be imposed on imports of SPT as defined in recital (17) originating in Croatia, Romania, Russia and Ukraine. As the product concerned as defined in section 2.1 covers also the product scope of the already existing measures, the continued imposition of measures imposed on the original product scope by Regulation (EC) No 2320/97 and Regulation (EC) No 348/2000, is no longer appropriate and therefore those Regulations, as amended, should be repealed.

(260) In parallel, the two interim reviews aforementioned, as well as the interim and expiry reviews initiated in November 2002 and referred to in section 1.2 should be terminated.

(261) Furthermore, the Regulation (EC) No 1866/2005 extending the partial suspension of measures on the original product scope from Croatia and Ukraine becomes obsolete following the repeal of Regulation (EC) No 348/2000,

HAS ADOPTED THIS REGULATION:

Article 1

A definitive anti-dumping duty is hereby imposed on imports of certain seamless pipes and tubes of iron or steel, of circular cross-section, of an external diameter not exceeding 406,4 mm with a Carbon Equivalent Value (CEV) not exceeding 0,86 according to the International Institute of Welding (IIW) formula and chemical analysis ([17]) falling within CN codes ex 7304 10 10, ex 7304 10 30, ex 7304 21 00, ex 7304 29 11, ex 7304 31 80, ex 7304 39 58, ex 7304 39 92, ex 7304 39 93, ex 7304 51 89, ex 7304 59 92 and ex 7304 59 93 ([18]) (TARIC codes 7304 10 10 20, 7304 10 30 20, 7304 21 00 20, 7304 29 11 20, 7304 31 80 30, 7304 39 58 30, 7304 39 92 30, 7304 39 93 20, 7304 51 89 30, 7304 59 92 30 and 7304 59 93 20) and originating in Croatia, Romania, Russia and Ukraine.

The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, of the products described above and manufactured by the companies below shall be as follows:

Country	Company	Anti-dumping duty	TARIC Additional code
Croatia	All companies	29,8 %	
Romania	S.C. T.M.K. — Artrom S.A.	17,8 %	A738
	S.C. Mittal Steel Roman S.A.	17,7 %	A739
	S.C. Silcotub S.A.	11,7 %	A740
	All other companies	17,8 %	A999
Russia	Joint Stock Company Chelyabinsk Tube Rolling Plant and Joint Stock Company Pervouralsky Novotrubny Works	24,1 %	A741
	All other companies	35,8 %	A999
Ukraine	OJSC Dnepropetrovsk Tube Works	12,3 %	A742
	CJSC Nikopolsky Seamless Tubes Plant Niko Tube and OJSC Nizhnedneprovsky Tube Rolling Plant	25,1 %	A743
	CJSC Nikopol Steel Pipe Plant Yutist	25,7 %	A744
	All other companies	25,7 %	A999

Notwithstanding the first subparagraph, the definitive anti-dumping duty shall not apply to imports released for free circulation in accordance with Article 2.

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

Article 2

1. Imports declared for release into free circulation which are invoiced by companies from which undertakings are accepted by the Commission and whose names are listed in the Commission Decision 2006/441/EC of 23 June 2006 ([19]), as from time to time amended, shall be exempt from the anti-dumping duty imposed by Article 1, on condition that:

— they are manufactured, shipped and invoiced directly by the said companies to the first independent customer in the Community, and

([17]) The CEV shall be determined in accordance with Technical Report, 1967, IIW doc. IX-535-67, published by the International Institute of Welding (IIW).

([18]) As defined in Commission Regulation (EC) No 1719/2005 of 27 October 2005 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 286, 28.10.2005, p. 1). The product coverage is determined in combining the product description in Article 1(1) and the product description of the corresponding CN codes taken together.

([19]) See p. 81 of this Official Journal.

— such imports are accompanied by an undertaking invoice which is a commercial invoice containing at least the elements and the declaration stipulated in the Annex of this Regulation, and

— the goods declared and presented to customs correspond precisely to the description on the undertaking invoice.

2. A customs debt shall be incurred at the time of acceptance of the declaration for release into free circulation:

— whenever it is established, in respect of imports described in paragraph 1, that one or more of the conditions listed in that paragraph are not fulfilled, or

— when the Commission withdraws its acceptance of the undertaking pursuant to Article 8(9) of the basic Regulation in a Regulation or Decision which refers to particular transactions and declares the relevant undertaking invoices as invalid.

Article 3

Regulation (EC) No 2320/97 and Regulation (EC) No 348/2000 are hereby repealed.

Article 4

The interim reviews of the anti-dumping duties on imports of SPT of iron or non-alloy steel originating, *inter alia*, in Russia and Romania and in Croatia and Ukraine, initiated in March 2005, are hereby terminated.

The interim and expiry reviews, initiated in November 2002 and confirmed by recital (20) of Regulation (EC) No 1322/2004 to be ongoing, are hereby terminated.

Article 5

This Regulation shall enter into force on the 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 Luxembourg, 27 June 2006.

For the Council
The President
J. PRÖLL

ANNEX

The following elements shall be indicated in the commercial invoice accompanying the company's sales of certain seamless pipes and tubes, of iron or steel, to the Community which are subject to an undertaking:

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'.

2. The name of the company mentioned in Article 1 of the Commission Decision 2006/441/EC accepting the undertaking issuing the commercial invoice.

3. The commercial invoice number.

4. The date of issue of the commercial invoice.

5. The TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier.

6. The exact description of the goods, including:

   — Product code number (PCN) used for the purposes of the investigation and the undertaking (e.g. PCN 1, PCN 2, etc),

   — plain language description of the goods corresponding to the PCN concerned,

   — company product code (CPC) (if applicable),

   — CN code,

   — quantity (to be given in metric tonnes).

7. The description of the terms of the sale, including:

   — price per metric tonne,

   — the applicable payment terms,

   — the applicable delivery terms,

   — total discounts and rebates.

8. Name of the company acting as an importer in the Community to which the commercial invoice accompanying goods subject to an undertaking is issued directly by the company.

9. The name of the official of the company that has issued the invoice and the following signed declaration:

   'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by [COMPANY], and accepted by the Commission through its Decision 2006/441/EC, I declare that the information provided in this invoice is complete and correct.'

COMMISSION REGULATION (EC) No 955/2006

of 28 June 2006

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 29 June 2006.

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

Done at Brussels, 28 June 2006.

For the Commission

J. L. DEMARTY

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 28 June 2006 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	45,8
	096	65,4
	204	44,1
	999	51,8
0707 00 05	052	72,2
	096	30,2
	999	51,2
0709 90 70	052	93,9
	999	93,9
0805 50 10	388	60,9
	528	57,3
	999	59,1
0808 10 80	388	88,8
	400	114,5
	404	105,3
	508	92,8
	512	84,4
	524	50,0
	528	76,5
	720	108,8
	800	180,6
	804	100,4
	999	100,2
0809 10 00	052	215,7
	999	215,7
0809 20 95	052	323,9
	068	127,8
	999	225,9
0809 40 05	624	193,2
	999	193,2

(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 956/2006

of 28 June 2006

amending Regulation (EEC) No 94/92, as regards the list of third countries from which certain agricultural products obtained by organic production must originate to be marketed within the Community

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs ([1]), and in particular Article 11(1)(a) thereof,

Whereas:

(1) The list of third countries from which certain agricultural products obtained by the organic production method must originate in order to be marketed within the Community, provided for in Article 11(1) of Regulation (EEC) No 2092/91 (hereinafter referred to as 'the list'), is set out in the Annex to Commission Regulation (EEC) No 94/92 of 14 January 1992 laying down detailed rules for implementing the arrangements for imports from third countries provided for in Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs ([2]).

(2) Certain agricultural products imported from India are currently marketed in the Community pursuant to the derogation provided for in Article 11(6) of Regulation (EEC) No 2092/91.

(3) India submitted a request to the Commission to be included in the list. It submitted the information required pursuant to Article 2(2) of Regulation (EEC) No 94/92.

(4) The examination of this information and consequent discussion with the Indian authorities have led to the conclusion that in that country the rules governing production and inspection of agricultural products are equivalent to those laid down in Regulation (EEC) No 2092/91.

(5) The Commission has carried out an on-the-spot-check of the rules of production and the inspection measures actually applied in India, as provided for in Article 11(5) of Regulation (EEC) No 2092/91.

(6) The duration of inclusion of Costa Rica and New Zealand in the list expires on 30 June 2006. In order to avoid trade disruption, there is a need to prolong the inclusion of these countries in the list for a further period.

(7) Australia has informed the Commission that one inspection body has changed its name and has corrected the name of another inspection body.

(8) Switzerland has requested the Commission to amend the terms of its inclusion in the list in accordance with the Agreement between the European Community and the Swiss Confederation on trade in agricultural products ([3]), approved by Decision 2002/309/EC of the Council and of the Commission ([4]), and in particular with Annex 9 of that Agreement on organically produced agricultural products and foodstuffs.

(9) Switzerland has submitted the information required pursuant to Article 2(5) of Regulation (EEC) No 94/92. The examination of the information submitted has led to the conclusion that the requirements are equivalent to those resulting from Community legislation.

(10) New Zealand has informed the Commission that one inspection body has changed its name.

(11) Regulation (EEC) No 94/92 should therefore be amended accordingly.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Committee instituted by Article 14 of Regulation (EEC) No 2092/91,

([1]) OJ L 198, 22.7.1991, p. 1. Regulation as last amended by Commission Regulation (EC) No 780/2006 (OJ L 137, 25.5.2006, p. 9).

([2]) OJ L 11, 17.1.1992, p. 14. Regulation as last amended by Regulation (EC) No 746/2004 (OJ L 122, 26.4.2004, p. 10).

([3]) OJ L 114, 30.4.2002, p. 132.

([4]) OJ L 114, 30.4.2002, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 94/92 is amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the seventh 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, 28 June 2006.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

The Annex to Regulation (EEC) No 94/92 is amended as follows:

1. In the text relating to Australia, point 3 is replaced by the following:

'3. **Inspection bodies**:

— Australian Quarantine and Inspection Service (AQIS) (Department of Agriculture, Fisheries and Forestry)

— Bio-dynamic Research Institute (BDRI)

— Organic Growers of Australia Inc. (OGA)

— Organic Food Chain Pty Ltd (OFC)

— National Association of Sustainable Agriculture, Australia (NASAA)

— Australian Certified Organic Pty. Ltd.'

2. In the text relating to Costa Rica, point 5 is replaced by the following:

'5. **Duration of the inclusion**: 30.6.2011.'

3. After the text relating to Costa Rica, the following text is inserted:

'INDIA

1. **Product categories**:

(a) unprocessed crop products within the meaning of Article 1(1)(a) of Regulation (EEC) No 2092/91;

(b) foodstuffs composed essentially of one or more ingredients of plant origin within the meaning of Article 1(1)(b) of Regulation (EEC) No 2092/91.

2. **Origin**: products of category 1(a) and organically grown ingredients in products of category 1(b) that have been grown in India.

3. **Inspection bodies**:

— BVQI (India) Pvt. Ltd

— Ecocert SA (India Branch Office)

— IMO Control Private Limited

— Indian Organic Certification Agency (Indocert)

— International Resources for Fairer Trade

— Lacon Quality Certification Pvt. Ltd

— Natural Organic Certification Association

— OneCert Asia Agri Certification private Limited

— SGS India Pvt. Ltd.

— Skal International (India)

— Uttaranchal State Organic Certification Agency (USOCA).

4. **Certificate issuing bodies**: as at 3

5. **Duration of the inclusion**: 30.6.2009.'

4. The text relating to Switzerland is amended as follows:

(a) Point 1 is replaced by the following:

'1. **Product categories**:

(a) unprocessed crop products and livestock and unprocessed livestock products within the meaning of Article 1(1)(a) of Regulation (EEC) No 2092/91, with the exception of:

— products, produced during the conversion period, as referred to in Article 5(5) of that Regulation;

(b) processed agricultural crop and livestock products intended for human consumption within the meaning of Article 1(1)(b) of Regulation (EEC) No 2092/91, with the exception of:

— products, as referred to in Article 5(5) of that Regulation, containing an ingredient of agricultural origin produced during the conversion period.'

(b) Point 3 is replaced by the following:

'3. **Inspection bodies**:

— Institut für Marktökologie (IMO)

— bio.inspecta AG

— Schweizerische Vereinigung für Qualitäts- und Management-Systeme (SQS)

— Bio Test Agro (BTA).'

5. The text relating to New Zealand is amended as follows:

(a) Point 3 is replaced by the following:

'3. **Inspection bodies**:

— AgriQuality

— BIO-GRO New Zealand.'

(b) Point 5 is replaced by the following:

'5. **Duration of the inclusion**: 30.6.2011.'

COMMISSION REGULATION (EC) No 957/2006

of 28 June 2006

concerning the classification of certain goods in the Combined Nomenclature and amending Regulation (EEC) No 48/90

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff [1], and in particular Article 9(1)(a) thereof,

Whereas:

(1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.

(2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific Community provisions, with a view to the application of tariff and other measures relating to trade in goods.

(3) Pursuant to those general rules, the goods described in column 1 of the table set out in the Annex to this Regulation should be classified under the CN codes indicated in column 2, by virtue of the reasons set out in column 3 of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [2].

(5) The classification of 'dot-matrix displays' in Commission Regulation (EEC) No 48/90 of 9 January 1990 concerning the classification of certain goods in the Combined Nomenclature [3] has led to incorrect classifications and therefore point 2 of the Annex to that Regulation should be deleted.

(6) The Customs Code Committee has not delivered an opinion within the time-limit set by its chairman as regards product No 3 in the annexed table.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee as regards products Nos 1 and 2 in the annexed table,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column 1 of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN codes indicated in column 2 of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

Point 2 of the Annex to Regulation (EEC) No 48/90 is deleted.

Article 4

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

[1] OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Regulation (EC) No 838/2006 (OJ L 154, 8.6.2006, p. 1).

[2] OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council (OJ L 117, 4.5.2005, p. 13).

[3] OJ L 8, 11.1.1990, p. 16. Regulation as last amended by Regulation (EC) No 705/2005 (OJ L 118, 5.5.2005, p. 18.

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

Done at Brussels, 28 June 2006.

For the Commission
László KOVÁCS
Member of the Commission

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
1. A graphic and alpha-numeric display based on the monochrome passive matrix liquid crystal display technology. The display consists of a liquid crystal layer sandwiched between two sheets or plates of glass with a number of dots (presented in 64 lines and 240 columns) and an electronic interface board of C-MOS technology. It can be incorporated with other products. It is unable to display video images.	8531 20 95	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8531, 8531 20 and 8531 20 95. The display has an electronic interface board. Therefore it cannot be classified as a liquid crystal device of heading 9013 (see also HS Explanatory Notes to heading 9013 (1)). The display does not incorporate electronics to reproduce video signals. Therefore it cannot be classified as a video monitor of heading 8528. The display is an indicator panel of heading 8531 as it is only capable of displaying graphics and alpha-numeric characters (see also HS Explanatory Notes to heading 8531 (D)).
2. A product, known as an 'LCD module (touch screen type)', in the form of an active matrix liquid crystal device with a backlight unit, inverters and printed circuit boards with control electronics for pixel addressing only. The liquid crystal device consists of a liquid crystal layer sandwiched between two sheets of glass. The outer layer of the glass cells is coated with a thin metallic electrically conductive and resistive layer. The module is based on thin-film transistor (TFT) technology. It has overall dimensions of 34,5 (W) × 35,3 (H) × 16,5 (D) cm and a diagonal screen measurement of 38,1 cm (15 inches). The module does not incorporate any other electronic components (for example, a power supply, a video converter, a scaler, a tuner, etc.), or interfaces for connection to other apparatus.	8548 90 90	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2(c) to Section XVI and by the wording of CN codes 8548, 8548 90 and 8548 90 90. The module is a part which is not suitable for use solely or principally with a particular kind of machine of Section XVI. Therefore it is classified under heading 8548 by virtue of Note 2(c) to Section XVI.

(1)	(2)	(3)
3. A product, known as an 'LCD module', in the form of an active matrix liquid crystal device with a backlight unit, inverters and printed circuit boards with control electronics for pixel addressing only. The module is based on thin-film transistor (TFT) technology. It has overall dimensions of 75,9 (W) × 44,9 (H) × 4,9 (D) cm, a diagonal screen measurement of 81,6 cm (32 inches) and a resolution of 1 366 × 768 pixels. The module does not incorporate any other electronic components (for example, a power supply, a video converter, a scaler, a tuner, etc.) or interfaces for connection to other apparatus.	8529 90 81	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2(b) to Section XVI and by the wording of CN codes 8529, 8529 90 and 8529 90 81. The module cannot be classified under heading 9013 because it comprises a backlight unit, inverters and printed circuit boards with control electronics for pixel addressing only (see also HS Explanatory Notes to heading 9013 (1)). The module is not classifiable in heading 8473 as a part of a display unit of an automatic data-processing machine, because it is not suitable for use solely or principally with an automatic data-processing machine of heading 8471. The module is not classifiable in heading 8531, because it is not considered to be an electrical visual signalling apparatus of heading 8531 or a part of such an apparatus in view of its characteristics (see also HS Explanatory Notes to heading 8531). Because of its characteristics (such as dimensions and resolution) the module is classifiable under heading 8529 because it is suitable for use solely or principally with apparatus of heading 8528.

COMMISSION REGULATION (EC) No 958/2006

of 28 June 2006

on a standing invitation to tender to determine refunds on exports of white sugar for the 2006/07 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector [1], and in particular Articles 23(4) and 40(1)(g) thereof,

Whereas:

(1) In view of the situation on the Community and world sugar markets, a standing invitation to tender should be opened as soon as possible for the export of white sugar in respect of the 2006/07 marketing year which, having regard to possible fluctuations in world prices for sugar, must provide for the determination of export refunds.

(2) The general rules governing invitations to tender for the purpose of determining export refunds for sugar established by Article 32 of Regulation (EC) No 318/2006 should be applied.

(3) In trade between the Community, on the one hand, and Bulgaria and Romania, on the other hand, import duties and export refunds still apply for certain sugar products and the level of export refunds is considerably higher than import duties. With the above countries due to join the European Union, this difference may result in speculative trade movements.

(4) In order to prevent any abuse associated with the reimport or reintroduction into the Community of sugar sector products that have qualified for export refunds, no export refund should be fixed for the countries of the western Balkans.

(5) In view of the specific nature of the operation, appropriate provisions should be laid down with regard to export licences issued in connection with the standing invitation to tender, in particular as regards the deadline for the issue of the licences, their period of validity, the amount of the security and the quantity for which the obligation to export resulting from the licence is met. However, Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [2] and Commission Regulation (EEC) No 120/89 of 19 January 1989 laying down common detailed rules for the application of the export levies and charges on agricultural products [3] must continue to apply.

(6) The provisions of this Regulation replace, as regards the partial invitations to tender in July 2006, those of Commission Regulation (EC) No 1138/2005 of 15 July 2005 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar for the 2005/06 marketing year [4]. For the sake of transparency and legal clarity, therefore, that Regulation should be repealed with effect from 1 July 2006.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A standing invitation to tender shall be opened in order to determine export refunds on white sugar covered by CN code 1701 99 10 for all destinations excluding Albania, Bulgaria, Croatia, Bosnia and Herzegovina, Serbia and Montenegro [5], the former Yugoslav Republic of Macedonia and for Romania. During the period of validity of this standing invitation, partial invitations to tender shall be issued.

2. The standing invitation to tender shall be open until 27 September 2007.

[1] OJ L 58, 28.2.2006, p. 1.

[2] OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 410/2006 (OJ L 71, 10.3.2006, p. 7).

[3] OJ L 16, 20.1.1989, p. 19. Regulation as last amended by Regulation (EC) No 910/2004 (OJ L 163, 30.4.2004, p. 63).

[4] OJ L 185, 16.7.2005, p. 3.

[5] Including Kosovo, under the aegis of the United Nations, in accordance with Security Council Resolution 1244 of 10 June 1999.

Article 2

1. The notice of invitation to tender shall be published in the *Official Journal of the European Union*. On this basis, the Member States shall draw up a notice of invitation to tender which they may publish or have published elsewhere.

2. The notice shall indicate, in particular, the terms of the invitation to tender.

3. The notice may be amended during the period of validity of the standing invitation to tender. It shall be so amended if the terms of the invitation to tender are modified during that period.

Article 3

1. The period during which tenders may be submitted in response to the first partial invitation to tender shall:

(a) begin on 5 July 2006;

(b) end on Thursday 13 July 2006 at 10.00, Brussels local time.

2. The periods during which tenders may be submitted in response to the second and subsequent partial invitations shall:

(a) begin on the first working day following the end of the preceding period;

(b) end at 10.00, Brussels local time, on:

— 27 July 2006,

— 10 and 31 August 2006,

— 14 and 28 September 2006,

— 5 and 19 October 2006,

— 9 and 23 November 2006,

— 7 and 21 December 2006,

— 11 and 25 January 2007,

— 8 and 22 February 2007,

— 8 and 29 March 2007,

— 19 and 26 April 2007,

— 10 and 24 May 2007,

— 14 and 28 June 2007,

— 12 and 19 July 2007,

— 9 and 30 August 2007,

— 13 and 27 September 2007.

Article 4

1. Tenders in connection with this tendering procedure:

(a) must be in writing and must be delivered by hand to the competent authority in a Member State, against a receipt; or

(b) must be addressed to that authority either by registered letter or telegram;

(c) must be addressed to that authority by telex, fax or electronic mail, where the authority accepts such forms of communication.

2. Tenders shall be valid only if the following conditions are met:

(a) tenders shall contain:

(i) the reference number of the invitation to tender and of the partial invitation to tender;

(ii) the name, address and VAT registration number of the tenderer;

(iii) the quantity of white sugar to be exported;

(iv) the amount of the export refund, per 100 kilograms of white sugar, expressed in euro to three decimal places;

(v) the amount of the security to be lodged in accordance with Article 5(1) covering the quantity of sugar indicated in (iii), expressed in the currency of the Member State in which the tender is submitted;

(b) the quantity to be exported is not less than 250 tonnes of white sugar;

(c) proof is furnished before expiry of the time-limit for the submission of tenders that the tenderer has lodged the security indicated in the tender;

(d) tenders include a declaration by the tenderer that if their tender is successful they will, within the period laid down in the second subparagraph of Article 11(2), apply for an export licence or licences in respect of the quantities of white sugar to be exported;

(e) tenders include a declaration by the tenderer that if the tender is successful they will:

(i) where the obligation to export resulting from the export licence referred to in Article 11(2) is not fulfilled, supplement the security by payment of the amount referred to in Article 12(3);

(ii) within 30 days following the expiry of the export licence in question, notify the authority which issued the licence of the quantity or quantities in respect of which the licence was not used.

3. A tender may stipulate that it is to be regarded as having been submitted only if one or both of the following conditions is/are met:

(a) the maximum export refund is fixed on the day of the expiry of the period for the submission of the tenders in question;

(b) the tender, if successful, relates to all or a specified part of the tendered quantity.

4. A tender which is not submitted in accordance with paragraphs 1 and 2, or which contains conditions other than those indicated in the present invitation to tender, shall not be considered.

5. Once submitted, a tender may not be withdrawn.

Article 5

1. A security of EUR 11 per 100 kilograms of white sugar to be exported under this invitation to tender must be lodged by each tenderer.

Without prejudice to Article 12(3), where a tender is successful this security shall become the security for the export licence at the time of the application referred to in Article 11(2).

2. The security referred to in paragraph 1 may be lodged at the tenderer's choice, either in cash or in the form of a guarantee given by an establishment complying with criteria laid down by the Member State in which the tender is submitted.

3. The security referred to in paragraph 1 shall be released:

(a) in the case of unsuccessful tenderers in respect of the quantity for which no award has been made;

(b) in the case of successful tenderers who have not applied for the relevant export licence within the period referred to in the second subparagraph of Article 11(2), at a rate of EUR 10 per 100 kilograms of white sugar;

(c) in the case of successful tenderers for the quantity for which they have fulfilled, within the meaning of Articles 31(b) and 32(1)(b)(i) of Regulation (EC) No 1291/2000, the export obligation resulting from the licence referred to in Article 11(2) of this Regulation in accordance with the terms of Article 35 of Regulation (EC) No 1291/2000.

In the case referred to under (b) of the first subparagraph, the releasable part of the security shall be reduced, as applicable, by the difference between the maximum amount of the export refund fixed for the partial invitation concerned and the maximum amount of the export refund fixed for the following partial invitation, when the latter amount is higher than the former.

Except in cases of *force majeure*, the part of the security or the security which is not released shall be forfeit in respect of the quantity of sugar for which the corresponding obligations have not been fulfilled.

4. In cases of *force majeure*, the competent authority of the Member State concerned shall take such action for the release of the security as it considers necessary having regard to the circumstances invoked by the party concerned.

Article 6

1. Tenders shall be examined in private by the competent authority concerned. The persons present at the examination shall be under an obligation not to disclose any particulars relating thereto.

2. Tenders submitted in accordance with this Regulation shall be communicated, if eligible, to the Commission by the Member States without the tenderers being mentioned by name and must be received by the Commission within one hour and thirty minutes of the expiry of the deadline for the weekly submission of tenders stipulated in the notice of invitation to tender.

Where no tenders are submitted, the Member States shall notify the Commission of this within the same time-limit.

Article 7

1. After the tenders received have been examined, a maximum quantity may be fixed for the partial invitation concerned.

2. A decision may be taken to make no award under a specific partial invitation to tender.

Article 8

1. If the Commission decides to make an award under the partial tendering procedure, it shall fix, in accordance with the procedure referred to in Article 39(2) of Regulation (EC) No 318/2006, the maximum amount of the export refund. This amount shall be fixed in the light of the current state and foreseeable development of the Community and world sugar markets.

2. Without prejudice to Article 9, a contract shall be awarded to every tenderer whose tender quotes a rate of refund equal to or less than such maximum refund.

Article 9

1. Where a maximum quantity has been fixed for a partial invitation to tender, contracts shall be awarded to the tenderer whose tender quotes the lowest refund. If the maximum quantity is not fully covered by that award, awards shall be made to other tenderers in ascending order of export refunds quoted until the entire maximum quantity has been accounted for.

2. Where an award to a particular tenderer in accordance with paragraph 1 would result in the maximum quantity being exceeded, that award shall be limited to such quantity as is still available. Where two or more tenders quote the same refund, and awards to all of them would result in the maximum quantity being exceeded, the quantity available shall be allocated to the tenderers concerned in one of the following ways:

(a) by division among the tenderers concerned in proportion to the total quantities in each of their tenders, or

(b) by apportionment among the tenderers concerned by reference to a maximum tonnage to be fixed for each of them, or

(c) by drawing of lots.

Article 10

1. The competent authority of the Member State concerned shall immediately notify applicants of the result of their participation in the invitation to tender. It shall also send statements of award to the successful tenderers.

2. Statements of award shall indicate at least:

(a) the procedure to which the tender relates;

(b) the quantity of white sugar to be exported;

(c) the amount, expressed in euro, of the export refund to be granted per 100 kilograms of white sugar of the quantity referred to in (b).

Article 11

1. Every successful tenderer shall have the right to receive, in the circumstances referred to in paragraph 2, an export licence covering the quantity awarded, indicating the export refund quoted in the tender.

2. Every successful tenderer shall be obliged to lodge, in accordance with the relevant provisions of Regulation (EC) No 1291/2000, an application for an export licence in respect of the quantity that has been awarded to it, the application not being revocable in derogation from Article 12 of Regulation (EEC) No 120/89.

The application shall be lodged not later than:

(a) the last working day preceding the date of the partial invitation to tender to be held the following week;

(b) if no partial invitation to tender is due to be held that week, the last working day of the following week.

3. Every successful tenderer shall be obliged to export the tendered quantity and, if this obligation is not fulfilled, to pay, where necessary, the amount referred to in Article 12(3).

4. The rights and obligations referred to in paragraphs 1, 2 and 3 shall not be transferable.

Article 12

1. For the purposes of determining the period of validity of the licences, Article 23(1) of Regulation (EC) No 1291/2000 shall apply.

2. Export licences issued in connection with a partial invitation to tender shall be valid from the day of issue until the end of the fifth calendar month following that in which the partial invitation was issued.

However, export licences issued in respect of the partial invitations held from 1 May 2007 will be valid only until 30 September 2007.

3. Except in cases of *force majeure*, the holder of the licence shall pay the competent authority a specific amount in respect of the quantity for which the obligation to export resulting from the export licence referred to in Article 11(2) has not been fulfilled, if the security referred to in Article 5(1) is less than the difference between the export refund referred to in Article 33(2)(a) of Regulation (EC) No 318/2006 in force on the last day of validity of the licence, and the refund indicated on that licence.

The amount to be paid referred to in the first subparagraph shall be equal to the difference between the difference referred to in the first subparagraph and the security referred to in Article 5(1).

Article 13

Regulation (EC) No 1138/2005 is hereby repealed.

Article 14

This Regulation shall enter into force on the day 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, 28 June 2006.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 959/2006

of 28 June 2006

amending Regulation (EC) No 647/2006 on the issue of rice import licences for applications lodged in the first 10 working days of April 2006 under Regulation (EC) No 327/98

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the markets in the rice sector [1],

Having regard to Commission Regulation (EC) No 327/98 of 10 February 1998 opening and providing for the administration of certain tariff quotas for imports of rice and broken rice [2], and in particular Article 5(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 647/2006 [3] sets the reduction percentages to apply to the quantities for April 2006 and the quantities carried over to July 2006 for the quota of semi-milled or milled rice under the CN code 1006 30.

(2) Following an administrative error made by a Member State, the quantity of quota 09.4128 to be carried over to July 2006 does not correspond to the actual quantity carried over.

(3) Regulation (EC) No 647/2006 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Point (a) in the Annex to Regulation (EC) No 647/2006 is replaced by the table contained in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 29 June 2006.

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

Done at Brussels, 28 June 2006.

For the Commission

J. L. DEMARTY

Director-General for Agriculture and Rural Development

[1] OJ L 270, 21.10.2003, p. 96. Regulation as last amended by Regulation (EC) No 797/2006 (OJ L 144, 31.5.2006, p. 1).

[2] OJ L 37, 11.2.1998, p. 5. Regulation as last amended by Regulation (EC) No 2152/2005 (OJ L 342, 24.12.2005, p. 30).

[3] OJ L 115, 28.4.2006, p. 18.

ANNEX

'(a) Quota of milled or semi-milled rice falling within CN code 1006 30 provided for in Article 1(1)(a) of Regulation (EC) No 327/98.

Origin	Serial No	Reduction percentage for April 2006	Quantity carried over to July 2006 (t)
United States of America	09.4127	0 (1)	11 635
Thailand	09.4128	0 (1)	1 161,419
Australia	09.4129	0 (1)	531,5
Other origins	09.4130	98,7985	0

(1) To be issued for the quantity in the application.'

COMMISSION REGULATION (EC) No 960/2006

of 28 June 2006

determining the quantity of certain products in the milk and milk products sector available for the second half of 2006 under quotas opened by the Community on the basis of an import licence alone

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1],

Having regard to Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas [2], and in particular Article 16(2) thereof,

Whereas:

When import licences were allocated for the first half of 2006 for certain quotas referred to in Regulation (EC) No 2535/2001, applications for licences covered quantities less than those available for the products concerned. As a result, the quantity available for each quota for the period 1 July to 31 December 2006 should be fixed, taking account of the unallocated quantities resulting from Commission Regulation (EC) No 160/2006 [3] determining the extent to which the applications for import licences submitted in January 2006 for certain dairy products under certain tariff quotas opened by Regulation (EC) No 2535/2001 can be accepted,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities available for the period 1 July to 31 December 2006 for the second half of the year of importation of certain quotas referred to in Regulation (EC) No 2535/2001 shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 29 June 2006.

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

Done at Brussels, 28 June 2006.

For the Commission

J. L. DEMARTY

Director-General for Agriculture and Rural Development

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[1] OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

[2] OJ L 341, 22.12.2001, p. 29. Regulation as last amended by Regulation (EC) No 926/2006 (OJ L 170, 23.6.2006, p. 8).

[3] OJ L 25, 28.1.2006, p. 21.

ANNEX I.C

Products originating in ACP countries

Quota number	Quantity (t)
09.4026	1 000
09.4027	1 000

ANNEX I.D

Products originating in Turkey

Quota number	Quantity (t)
09.4101	1 500

ANNEX I.E

Products originating from South Africa

Quota number	Quantity (t)
09.4151	6 500

COMMISSION REGULATION (EC) No 961/2006

of 28 June 2006

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 19 to 23 June 2006 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 19 to 23 June 2006 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 29 June 2006.

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

Done at Brussels, 28 June 2006.

For the Commission

J. L. DEMARTY

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 19.-23.6.2006: percentage of requested quantity to be granted	Limit
Barbados	100	
Belize	0	reached
Congo	100	
Fiji	0	reached
Guyana	0	reached
India	0	
Côte d'Ivoire	100	
Jamaica	0	reached
Kenya	0	reached
Madagascar	100	
Malawi	100	
Mauritius	0	reached
Mozambique	0	reached
Saint Kitts and Nevis	0	reached
Swaziland	0	reached
Tanzania	100	
Trinidad and Tobago	100	
Zambia	64,1347	reached
Zimbabwe	0	reached

2006/07 marketing year

Country	Week of 19.-23.6.2006: percentage of requested quantity to be granted	Limit
Barbados	100	
Belize	100	
Congo	100	
Fiji	100	
Guyana	100	
India	100	
Côte d'Ivoire	100	
Jamaica	100	
Kenya	100	
Madagascar	100	
Malawi	100	
Mauritius	100	
Mozambique	100	
Saint Kitts and Nevis	100	
Swaziland	100	
Tanzania	100	
Trinidad and Tobago	100	
Zambia	100	
Zimbabwe	100	

Special preferential sugar

Title III of Regulation (EC) No 1159/2003

2005/06 marketing year

Country	Week of 19.-23.6.2006: percentage of requested quantity to be granted	Limit
India	0	reached
ACP	100	

CXL concessions sugar

Title IV of Regulation (EC) No 1159/2003

2005/06 marketing year

Country	Week of 19.-23.6.2006: percentage of requested quantity to be granted	Limit
Brazil	0	reached
Cuba	100	
Other third countries	0	reached

COMMISSION DIRECTIVE 2006/59/EC

of 28 June 2006

amending Annexes to Council Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC as regards maximum residue levels for carbaryl, deltamethrin, endosulfan, fenithrothion, methidathion and oxamyl

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 76/895/EEC of 23 November 1976 relating to the fixing of maximum levels for pesticide residues in and on fruit and vegetables [1], and in particular Article 5 thereof,

Having regard to Council Directive 86/362/EEC of 24 July 1986 on the fixing of maximum levels for pesticide residues in and on cereals [2], and in particular Article 10 thereof,

Having regard to Council Directive 86/363/EEC of 24 July 1986 on the fixing of maximum levels for pesticide residues in and on foodstuffs of animal origin [3], and in particular Article 10 thereof,

Having regard to Council Directive 90/642/EEC of 27 November 1990 on the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables [4], and in particular Article 7 thereof,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market [5], and in particular Article 4(1)(f) thereof,

Whereas:

(1) In the case of cereals and products of plant origin including fruit and vegetables, residue levels reflect the use of minimum quantities of pesticides necessary to achieve effective protection of plants, applied in such a manner that the amount of residue is as low as is practicable and toxicologically acceptable, having regard, in particular to the protection of the environment and the estimated dietary intake of consumers. In the case of foodstuffs of animal origin, residue levels reflect the consumption by animals of cereals and products of plant origin treated with pesticides and, where relevant, the direct consequences of the use of veterinary medicines. Community maximum residue levels (MRLs) represent the upper limit of the amount of such residues that might be expected to be found in commodities when good agricultural practices have been respected.

(2) MRLs for pesticides are kept under review and changed to take account of new information and data. MRLs are fixed at the lower limit of analytical determination where authorised uses of plant protection products do not result in detectable levels of pesticide residue in or on the food product, or where there are no authorised uses, or where uses which have been authorised by Member States have not been supported by the necessary data, or where uses in third countries resulting in residues in or on food products which may enter into circulation in the Community market have not been supported by the necessary data.

(3) The Commission was informed that for several pesticides current MRLs may need to be revised in the light of the availability of new information on the toxicology and consumer intake. The Commission has asked the relevant rapporteur Member States to make proposals for the review of Community MRLs. Such proposals were submitted to the Commission.

(4) The lifetime and short-term exposure of consumers to the pesticides referred to in this Directive via food products has been reassessed and evaluated in accordance with Community procedures and practices, taking account of guidelines published by the World Health Organisation [6]. On that basis, it is appropriate to fix new MRLs, which will ensure that there is no unacceptable consumer exposure.

[1] OJ L 340, 9.12.1976, p. 26. Directive as last amended by Commission Directive 2005/70/EC (OJ L 276, 21.10.2005, p. 35).
[2] OJ L 221, 7.8.1986, p. 37. Directive as last amended by Commission Directive 2006/30/EC (OJ L 75, 14.3.2006, p. 7).
[3] OJ L 221, 7.8.1986, p. 43. Directive as last amended by Commission Directive 2006/30/EC.
[4] OJ L 350, 14.12.1990, p. 71. Directive as last amended by Commission Directive 2006/53/EC (OJ L 154, 8.6.2006, p. 11).
[5] OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2006/45/EC (OJ L 130, 18.5.2006, p. 27).
[6] Guidelines for predicting dietary intake of pesticide residues (revised), prepared by the GEMS/Food Programme in collaboration with the Codex Committee on Pesticide Residues, published by the World Health Organisation 1997 (WHO/FSF/FOS/97.7).

(5) Where relevant, the acute exposure of consumers to those pesticides via each of the food products that may contain residues has been assessed and evaluated in accordance with Community procedures and practices, taking account of guidelines published by the World Health Organisation. It is concluded that the presence of pesticide residues at or below the new MRLs will not cause acute toxic effects.

(6) Through the World Trade Organisation, the Community's trading partners have been consulted about the new MRLs and their comments on these levels have been taken into account.

(7) The Annexes to Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC should therefore be amended accordingly.

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

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Annex II to Directive 76/895/EEC the entries relating to carbaryl, and fenithrothion are deleted.

Article 2

Directive 86/362/EEC is amended as follows:

(a) in Part A of Annex II, the lines for oxamyl as set out in Annex I to this Directive are added;

(b) in Part A of Annex II, the lines for deltamethrin and methidathion are replaced by the text in Annex II to this Directive.

Article 3

Directive 86/363/EEC is amended as follows:

(a) in Part A of Annex II, the line for carbaryl in Annex III to this Directive is added;

(b) in Part B of Annex II, the line for deltamethrin is replaced by the text in Annex IV to this Directive.

Article 4

Directive 90/642/EEC is amended as follows:

(a) in Annex II, the lines for carbaryl and oxamyl, as set out in Annex V to this Directive, are added;

(b) in Annex II, the lines for deltamethrin, endosulfan, fenithrothion and methidathion are replaced by the text in Annex VI to this Directive.

Article 5

1. Member States shall adopt and publish, by 29 December 2006 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 30 December 2006, except the provisions for oxamyl which shall apply from 30 December 2007.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 6

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 28 June 2006.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX I

Pesticide residues	Maximum levels in mg/kg
'Oxamyl	0,01 (*) (p) CEREALS

(*) Indicates lower limit of analytical determination.
(p) Indicates provisional maximum residue level in accordance with Article 4(1)(f) of Directive 91/414/EEC: unless amended, this level will become definitive with effect from 19 July 2010.'

ANNEX II

Pesticide residues	Maximum levels in mg/kg
'Deltamethrin	2 CEREALS
Methidathion	0,02 (*) CEREALS

(*) Indicates lower limit of analytical determination.'

ANNEX III

Pesticide residues	Maximum levels in mg/kg		
	of fat contained in meat, preparations of meat, offal and animal fats listed in Annex I under headings Nos ex 0201, 0202, 0203, 0204, 0205 00 00, 0206, 0207, ex 0208, 0209 00, 0210, 1601 00 and 1602 (1) (4)	for cow's milk and whole cream cow's milk listed in Annex I under headings No 0401; for other foodstuffs in heading Nos 0401, 0402, 0405 00 and 0406 in accordance with (2) (4)	of shelled fresh eggs, for bird's eggs and egg yolks listed in Annex I under headings Nos 0407 00 and 0408 (3) (4)
'carbaryl	0,05 (*)	0,05 (*)	0,05 (*)

(*) Indicates lower limit of analytical determination.'

ANNEX IV

Pesticide residues	Maximum levels in mg/kg		
	of fat contained in meat, preparations of meat, offal and animal fats listed in Annex I under headings Nos ex 0201, 0202, 0203, 0204, 0205 00 00, 0206, 0207, ex 0208, 0209 00, 0210, 1601 00 and 1602 (1) (4)	for cow's milk and whole cream cow's milk listed in Annex I under headings No 0401; for other foodstuffs in heading Nos 0401, 0402, 0405 00 and 0406 accordance with (2) (4)	of shelled fresh eggs, for bird's eggs and egg yolks listed in Annex I under headings Nos 0407 00 and 0408 (3) (4)
'deltamethrin (cis-deltametrin) [a]	liver and kidney 0,03 (*), poultry and poultry products 0,1, others 0,5	0,05	0,05 (*)

(*) Indicates lower limit of analytical determination.
[a] Temporary MRL valid until 1 November 2007, pending review of the Annex III dossier under 91/414/EEC and the re-registration of deltamethrin formulations at Member State level.'

ANNEX V

Groups and examples of individual products to which the MRLs apply	Carbaryl	Oxamyl [b]
'1. **Fruit, fresh, dried or uncooked, preserved by freezing, not containing added sugar; nuts**		
(i) **CITRUS FRUIT**	0,05 (*)	
Grapefruit		
Lemons		
Limes		
Mandarins (including clementines and other hybrids)		0,02 [P]
Oranges		
Pomelos		
Others		0,01 (*) [P]
(ii) **TREE NUTS (shelled or unshelled)**	0,05 (*)	0,01 (*) [P]
Almonds		
Brazil nuts		
Cashew nuts		
Chestnuts		
Coconuts		
Hazelnuts		
Macadamia		
Pecans		
Pine nuts		
Pistachios		
Walnuts		
Others		
(iii) **POME FRUIT**	0,05 (*)	0,01 (*) [P]
Apples		
Pears		
Quinces		
Others		
(iv) **STONE FRUIT**	0,05 (*)	0,01 (*) [P]
Apricots		
Cherries		
Peaches (including nectarines and similar hybrids)		
Plums		
Others		

Groups and examples of individual products to which the MRLs apply	Carbaryl	Oxamyl [b]
(v) **BERRIES AND SMALL FRUIT**	0,05 (*)	0,01 (*) [P]
(a) Table and wine grapes		
Table grapes		
Wine grapes		
(b) Strawberries (other than wild)		
(c) Cane fruit (other than wild)		
Blackberries		
Dewberries		
Loganberries		
Raspberries		
Others		
(d) Other small fruit and berries (other than wild)		
Bilberries		
Cranberries		
Currants (red, black and white)		
Gooseberries		
Others		
(e) Wild berries and wild fruit		
(vi) **MISCELLANEOUS**		0,01 (*) [P]
Avocados		
Bananas		
Dates		
Figs		
Kiwis		
Kumquats		
Litchis		
Mangoes		
Olives (table consumption)	5	
Olives (oil extraction)	5	
Papayas		
Passion fruit		
Pineapples		
Pomegranate		
Others	0,05 (*)	

Groups and examples of individual products to which the MRLs apply	Carbaryl	Oxamyl (b)
2. **Vegetables, fresh or uncooked, frozen or dry**		
(i) **ROOT AND TUBER VEGETABLES**	0,05 (*)	0,01 (*) (P)
Beetroot		
Carrots		
Cassava		
Celeriac		
Horseradish		
Jerusalem artichokes		
Parsnips		
Parsley root		
Radishes		
Salsify		
Sweet potatoes		
Swedes		
Turnips		
Yam		
Others		
(ii) **BULB VEGETABLES**	0,05 (*)	0,01 (*) (P)
Garlic		
Onions		
Shallots		
Spring onions		
Others		
(iii) **FRUITING VEGETABLES**		
(a) Solanacea		
Tomatoes	0,5	0,02 (P)
Peppers		0,02 (P)
Aubergines		0,02 (P)
Okra		
Others	0,05 (*)	0,01 (*) (P)
(b) Cucurbits - edible peel	0,05 (*)	
Cucumbers		0,02 (P)
Gherkins		0,02 (P)
Courgettes		0,03 (P)
Others		0,01 (*) (P)

Groups and examples of individual products to which the MRLs apply	Carbaryl	Oxamyl (b)
(c) Cucurbits - inedible peel	0,05 (*)	0,01 (*) (P)
Melons		
Squashes		
Watermelons		
Others		
(d) Sweet corn		0,01 (*) (P)
(iv) **BRASSICA VEGETABLES**	0,05 (*)	0,01 (*) (P)
(a) Flowering brassica		
Broccoli		
Cauliflower		
Others		
(b) Head brassica		
Brussels sprouts		
Head cabbage		
Others		
(c) Leafy brassica		
Chinese cabbage		
Kale		
Others		
(d) Kohlrabi		
(v) **LEAF VEGETABLES AND FRESH HERBS**	0,05 (*)	0,01 (*) (P)
(a) Lettuce & similar		
Cress		
Lamb's lettuce		
Lettuce		
Scarole		
Ruccola		
Leaves and stems of brassica		
Others		
(b) Spinach & similar		
Spinach		
Beet leaves (chard)		
Others		
(c) Watercress		
(d) Witloof		

Groups and examples of individual products to which the MRLs apply	Carbaryl	Oxamyl (b)
(e) Herbs		
Chervil		
Chives		
Parsley		
Celery leaves		
Others		
(vi) **LEGUME VEGETABLES (fresh)**	0,05 (*)	0,01 (*) (P)
Beans (with pods)		
Beans (without pods)		
Peas (with pods)		
Peas (without pods)		
Others		
(vii) **STEM VEGETABLES (fresh)**	0,05 (*)	0,01 (*) (P)
Asparagus		
Cardoons		
Celery		
Fennel		
Globe artichokes		
Leeks		
Rhubarb		
Others		
(viii) **FUNGI**	0,05 (*)	0,01 (*) (P)
(a) Cultivated mushrooms		
(b) Wild mushrooms		
3. **Pulses**	0,05 (*)	0,01 (*) (P)
Beans		
Lentils		
Peas		
Others		
4. **Oil seed**	0,05 (*)	0,02 (*) (P)
Linseed		
Peanuts		
Poppy seeds		
Sesame seeds		
Sunflower seeds		
Rape-seed		

Groups and examples of individual products to which the MRLs apply	Carbaryl	Oxamyl (b)
Soya beans		
Mustard seeds		
Cotton seed		
Hemp seed		
Others		
5. **Potatoes**	0,05 (*)	0,01 (*) (P)
Early potatoes		
Ware potatoes		
6. **Tea (leaves and stems, dried, fermented or otherwise, from the leaves of *Camellia sinensis*)**	0,1 (*)	0,02 (P)
7. **Hops (dried), including hop pellets and unconcentrated powder**	0,1 (*)	0,02 (P)

(*) Indicates lower limit of analytical determination.
(P) Indicates provisional maximum residue level in accordance with Article 4(1)(f) of Directive 91/414/EEC: unless amended, this level will become definitive with effect from 19 July 2010.
(b) Temporary MRL valid until 1 January 2008, pending submission of trial data.'

ANNEX VI

Groups and examples of individual products to which the MRLs apply	Deltamethrin (cis-deltamethrin) [a]	Endosulfan (sum of alpha- and beta-isomers and endosulfan-sulphate expressed as endosulfan)	Fenitrothion	Methidathion
'1. **Fruit, fresh, dried or uncooked, preserved by freezing, not containing added sugar; nuts**			0,01 (*)	
(i) **CITRUS FRUIT**	0,05 (*)	0,05 (*)		2
Grapefruit				
Lemons				
Limes				
Mandarins (including clementines and other hybrids)				
Oranges				
Pomelos				
Others				
(ii) **TREE NUTS (shelled or unshelled)**	0,05 (*)	0,1 (*)		0,05 (*)
Almonds				
Brazil nuts				
Cashew nuts				
Chestnuts				
Coconuts				
Hazelnuts				
Macadamia				
Pecans				
Pine nuts				
Pistachios				
Walnuts				
Others				
(iii) **POME FRUIT**				0,02 (*)
Apples	0,2			
Pears		0,3		
Quinces				
Others	0,1	0,05 (*)		
(iv) **STONE FRUIT**		0,05 (*)		
Apricots				
Cherries	0,2			
Peaches (including nectarines and similar hybrids)				0,05
Plums				0,2
Others	0,1			0,02 (*)

Groups and examples of individual products to which the MRLs apply	Deltamethrin (cis-deltamethrin) [a]	Endosulfan (sum of alpha- and beta-isomers and endosulfan-sulphate expressed as endosulfan)	Fenitrothion	Methidathion
(v) **BERRIES AND SMALL FRUIT**				
(a) Table and wine grapes	0,2	0,5		0,02 (*)
Table grapes				
Wine grapes				
(b) Strawberries (other than wild)	0,2	0,05 (*)		0,02 (*)
(c) Cane fruit (other than wild)		0,05 (*)		0,02 (*)
Blackberries	0,5			
Dewberries				
Loganberries				
Raspberries	0,5			
Others	0,05 (*)			
(d) Other small fruit and berries (other than wild)		0,05 (*)		0,02 (*)
Bilberries				
Cranberries				
Currants (red, black and white)	0,5			
Gooseberries	0,2			
Others	0,05 (*)			
(e) Wild berries and wild fruit	0,05 (*)	0,05 (*)		0,02 (*)
(vi) **MISCELLANEOUS**		0,05 (*)		
Avocados				
Bananas				
Dates				
Figs				
Kiwi	0,2			
Kumquats				
Litchis				
Mangoes				
Olives (table consuption)	1			1
Olives (oil extraction)	1			1
Papaya				
Passion fruit				
Pineapples				
Pomegranate				
Others	0,05 (*)			0,02 (*)

Groups and examples of individual products to which the MRLs apply	Deltamethrin (cis-deltamethrin) (a)	Endosulfan (sum of alpha- and beta-isomers and endosulfan-sulphate expressed as endosulfan)	Fenitrothion	Methidathion
2. **Vegetables, fresh or uncooked, frozen or dry**			0,01 (*)	0,02 (*)
(i) **ROOT AND TUBER VEGETABLES**	0,05 (*)	0,05 (*)		
Beetroot				
Carrots				
Cassava				
Celeriac				
Horseradish				
Jerusalem artichokes				
Parsnips				
Parsley root				
Radishes				
Salsify				
Sweet potatoes				
Swedes				
Turnips				
Yam				
Others				
(ii) **BULB VEGETABLES**		0,05 (*)		
Garlic	0,1			
Onions	0,1			
Shallots	0,1			
Spring onions	0,1			
Others	0,05 (*)			
(iii) **FRUITING VEGETABLES**				
(a) Solanacea				
Tomatoes	0,3	0,5		
Peppers		1		
Aubergines	0,3			
Okra	0,3			
Others	0,2	0,05 (*)		
(b) Cucurbits — edible peel	0,2	0,05 (*)		
Cucumbers				
Gherkins				
Courgettes				
Others				

Groups and examples of individual products to which the MRLs apply	Deltamethrin (cis-deltamethrin) (a)	Endosulfan (sum of alpha- and beta-isomers and endosulfan-sulphate expressed as endosulfan)	Fenitrothion	Methidathion
(c) Cucurbits — inedible peel	0,2	0,05 (*)		
Melons				
Squashes				
Watermelons				
Others				
(d) Sweet corn	0,05 (*)	0,05 (*)		
(iv) **BRASSICA VEGETABLES**		0,05 (*)		
(a) Flowering brassica	0,1			
Broccoli				
Cauliflower				
Others				
(b) Head brassica	0,1			
Brussels sprouts				
Head cabbage				
Others				
(c) Leafy brassica	0,5			
Chinese cabbage				
Kale				
Others				
(d) Kohlrabi	0,05 (*)			
(v) **LEAF VEGETABLES AND FRESH HERBS**		0,05 (*)		
(a) Lettuce & similar	0,5			
Cress				
Lamb's lettuce				
Lettuce				
Scarole				
Ruccola				
Leaves and stems of brassica				
Others				
(b) Spinach & similar	0,5			
Spinach				
Beet leaves (chard)				
Others				
(c) Water cress	0,05 (*)			
(d) Witloof	0,05 (*)			

Groups and examples of individual products to which the MRLs apply	Deltamethrin (cis-deltamethrin) (a)	Endosulfan (sum of alpha- and beta-isomers and endosulfan-sulphate expressed as endosulfan)	Fenitrothion	Methidathion
(e) Herbs	0,5			
Chervil				
Chives				
Parsley				
Celery leaves				
Others				
(vi) **LEGUME VEGETABLES (fresh)**	0,2	0,05 (*)		
Beans (with pods)				
Beans (without pods)				
Peas (with pods)				
Peas (without pods)				
Others				
(vii) **STEM VEGETABLES (fresh)**		0,05 (*)		
Asparagus				
Cardoons				
Celery				
Fennel				
Globe artichokes	0,1			
Leek	0,2			
Rhubarb				
Others	0,05 (*)			
(viii) **FUNGI**	0,05 (*)	0,05 (*)		
(a) Cultivated mushrooms				
(b) Wild mushrooms				
3. **Pulses**	1	0,05 (*)	0,01 (*)	0,02 (*)
Beans				
Lentils				
Peas				
Others				
4. **Oil seed**			0,01 (*)	
Linseed				
Peanuts				
Poppy seeds				
Sesame seeds				
Sunflower seed				
Rape seed	0,1			0,05

Groups and examples of individual products to which the MRLs apply	Deltamethrin (cis-deltamethrin) [a]	Endosulfan (sum of alpha- and beta-isomers and endosulfan-sulphate expressed as endosulfan)	Fenitrothion	Methidathion
Soya bean		0,5		
Mustard seed	0,1			
Cotton seed		5		
Hemp seed				
Others	0,05 (*)	0,1 (*)		0,02 (*)
5. **Potatoes**	0,05 (*)	0,05 (*)	0,01 (*)	0,02 (*)
Early potatoes				
Ware potatoes				
6. **Tea (leaves and stems, dried, fermented or otherwise, from the leaves of *Camellia sinensis*)**	5	30	0,5	0,1 (*)
7. **Hops (dried), including hop pellets and unconcentrated powder**	5	0,1 (*)	0,02 (*)	0,1 (*)

[a] Temporary MRL valid until 1 November 2007, pending review of the Annex III dossier under 91/414/EEC and the re-registration of deltamethrin formulations at Member State level.

(*) Indicates lower limit of analytical determination.'

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 1 June 2006

amending Annex 12 to the Common Consular Instructions and Annex 14a to the Common Manual on the fees to be charged corresponding to the administrative costs of processing visa applications

(2006/440/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Regulation (EC) No 789/2001 of 24 April 2001 reserving the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications [1],

Having regard to Council Regulation (EC) No 790/2001 of 24 April 2001 reserving the Council implementing powers with regard to certain detailed provisions and practical procedures for carrying out border checks and surveillance [2],

Having regard to the initiative of the French Republic,

Whereas:

(1) Council Decision 2002/44/EC of 20 December 2001 amending Part VII and Annex 12 to the Common Consular Instructions and Annex 14a to the Common Manual [3] established that the fees to be levied in connection with an application for a visa correspond to the administrative costs incurred. The Common Consular Instructions and the Common Manual should therefore be amended accordingly.

(2) Council Decision 2003/454/EC of 13 June 2003 amending Annex 12 to the Common Consular Instructions and Annex 14a to the Common Manual on visa fees [4] fixed the amount to be charged corresponding to the administrative costs of processing visa applications at EUR 35.

(3) Recital 2 of Decision 2003/454/EC established that the amount to be charged should be revised at regular intervals.

(4) The amount of EUR 35 no longer covers current visa application processing costs. Moreover, the consequences of the introduction of the European Visa Information System (VIS) and the biometrics required to introduce the VIS in the visa application examining process should be taken into account.

(5) The current amount of EUR 35 should be readjusted accordingly in order to cover the additional costs of processing the visa application corresponding to the introduction of biometrics and the VIS.

(6) Regulation (EC) No …/2006 of the European Parliament and of the Council laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention [5] allows for the local border traffic permit to be issued free of charge.

(7) Recommendation 2005/761/EC of the European Parliament and of the Council of 28 September 2005 to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the Community for the purpose of carrying out scientific research [6] encourages the issue of visas without administrative fees for researchers.

[1] OJ L 116, 26.4.2001, p. 2.
[2] OJ L 116, 26.4.2001, p. 5.
[3] OJ L 20, 23.1.2002, p. 5.
[4] OJ L 152, 20.6.2003, p. 82.
[5] Not yet published in the Official Journal.
[6] OJ L 289, 3.11.2005, p. 23.

(8) Waiving or reducing the fees to be charged for nationals of certain third countries in addition to the exceptions mentioned in Article 2 of this Decision may be the subject of agreements between the European Community and the third countries concerned consistent with the Community's overall approach to visa facilitation agreements.

(9) Member States should make maximum use of the possibilities offered by the Schengen *acquis* for the purpose of developing people-to-people contact with the neighbouring countries consistent with overall EU policy objectives.

(10) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision, and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Decision whether it will implement it in its national law.

(11) As regards Iceland and Norway, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* [1], which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement [2].

(12) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation, concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis,* which fall within the area referred to in Article 1, point A of Decision 1999/437/EC in connection with Article 4(1) of the Council Decisions of 25 October 2004 on the signing on behalf of the European Union, and on behalf of the European Community, and on the provisional application of certain provisions of that Agreement.

(13) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* [3]; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

(14) This Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* [4]; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

(15) This Decision constitutes an act building upon the Schengen *acquis* or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession,

HAS ADOPTED THIS DECISION:

Article 1

The table of Annex 12 of the Common Consular Instructions and the table of Annex 14a of the Common Manual shall be replaced by the following table:

'Fees to be charged corresponding to the administrative costs of processing visa applications

Type of visa	Fees to be charged (in EUR)
Airport transit visa (Category A)	60
Transit visa (Category B)	60
Short-stay visa (1 to 90 days) (Category C)	60
Visa with limited territorial validity (Categories B and C)	60
Visa issued at the border (Categories B and C)	60 This visa may be issued free of charge.
Group visa (Categories A, B and C)	60 + 1 per person
National long-stay visa (Category D)	The amount shall be fixed by the Member States, who may decide to issue these visas free of charge.
National long-stay visa valid concurrently as a short stay visa (Categories D and C)	The amount shall be fixed by the Member States, who may decide to issue these visas free of charge.'

[1] OJ L 176, 10.7.1999, p. 36.
[2] OJ L 176, 10.7.1999, p. 31.
[3] OJ L 131, 1.6.2000, p. 43.
[4] OJ L 64, 7.3.2002, p. 20.

Article 2

In Annex 12 to the Common Consular Instructions and in Annex 14a to the Common Manual, point II of the 'Rules' shall be replaced by the following:

'II.1. In individual cases, the amount of the fee to be charged may be waived or reduced in accordance with national law when this measure serves to promote cultural interests as well as interests in the field of foreign policy, development policy, other areas of vital public interest or for humanitarian reasons.

II.2. The fee to be charged is waived for visa applicants belonging to one of the following categories:

— children under six years,

— school pupils, students, post graduate students and accompanying teachers who undertake trips for the purpose of study or educational training, and

— researchers from third countries travelling within the Community for the purpose of carrying out scientific research as defined in the Recommendation 2005/761/EC of the European Parliament and of the Council of 28 September 2005 to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the Community for the purpose of carrying out scientific research (*).

II.3. A fee reduction or waiver for nationals of a third country may also be the result of a visa facilitation agreement concluded between the European Community and that third country consistent with the Community's overall approach to visa facilitation agreements.

II.4. Until 1 January 2008, this Decision shall not affect the fee to be charged to nationals of third countries in respect of which the Council will have given the Commission, by 1 January 2007, a mandate to negotiate a visa facilitation agreement.

(*) OJ L 289, 3.11.2005, p. 23.'

Article 3

This Decision shall apply as from 1 January 2007.

Member States may apply this Decision before 1 January 2007 but not earlier than 1 October 2006, provided that they notify the General Secretariat of the Council of the date from which they are in a position to do so.

Article 4

This Decision is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Luxembourg, 1 June 2006.

For the Council
The President
L. PROKOP

STATEMENT BY THE COUNCIL AND THE COMMISSION

The Council and Commission note that visa facilitation, that is simplification of visa issuing procedures for nationals of third countries who are under visa obligation, can provide further opportunities for promoting contacts between the EU and neighbouring countries, including by way of waiving or reducing the fees for certain categories of nationals of third countries.

The Council and Commission also note that the common approach on visa facilitation provides the possibility to open, on a case by case assessment, visa facilitation negotiations with third countries, while bearing in mind the European Union's overall relationship with candidate countries, countries with a European perspective and countries covered by the European neighbourhood policy as well as with strategic partners.

The Council and Commission confirm their support for the development of visa facilitation agreements with third countries in accordance with the process and considerations laid down in the common approach on visa facilitation, emphasising the need to negotiate parallel agreements on readmission, with a view to the simultaneous entry into force of such agreements.

The Council and Commission recall that, in the context of promoting people-to-people contacts with neighbouring countries in a manner consistent with overall EU policy objectives, Member States should make use of the possibilities offered by the Schengen *acquis*, in particular where such people-to-people contacts can contribute to the strengthening of civil society and democratisation in those countries. The Council and Commission also request that the impact of the new measures for this purpose be kept under review.

STATEMENT BY THE COUNCIL

On the basis of the process and considerations laid down in the common approach on visa facilitation based on a case-by-case assessment of the countries concerned, and having regard to Rule II.3 of this Decision, the Council invites the Commission to bring forward recommendations for mandates for initiating negotiations on visa facilitation and readmission agreements, starting with the countries with a European perspective as referred to in the European Council Conclusions of June 2003 and June 2005.

COMMISSION

COMMISSION DECISION

of 23 June 2006

accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of certain seamless pipes and tubes, of iron or steel, originating, *inter alia*, in Romania

(2006/441/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

After consulting the Advisory Committee,

Whereas:

A. **PROCEDURE**

(1) On 31 March 2005, the Commission announced by a notice published in the *Official Journal of the European Union* [2], the initiation *inter alia* of an anti-dumping proceeding concerning imports into the Community of certain seamless pipes and tubes, of iron or steel, ('SPT') originating in Croatia, Romania, Russia and Ukraine.

(2) The definitive findings and conclusions of the investigation are set out in Council Regulation (EC) No 954/2006 [3] imposing *inter alia* a definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel, originating in Croatia, Romania, Russia and Ukraine.

B. **UNDERTAKING**

(3) Prior to the adoption of definitive anti-dumping measures, the following cooperating exporting producers in Romania ('the exporting producers') offered price undertakings in accordance with Article 8(1) of Regulation (EC) No 384/96 (the 'basic Regulation'):

— SC Artrom SA

— SC Silcotub SA

— SC Mittal Steel Roman SA

(4) In these undertakings, the exporting producers have offered to sell a limited number of types of the product concerned, as defined in Regulation (EC) No 954/2006, within a quantitative ceiling at or above price levels which eliminate the injurious effects of dumping. Imports beyond the quantitative ceiling will be subject to the applicable anti-dumping duty. The number of types covered by the undertakings is in all cases not more than six, given the constraints of the monitoring of these undertakings, and the types concerned represent around 75 % of the total sales of the exporting producers to the Community. The exporting producers also undertake to respect different minimum import prices for each product type falling under the undertakings. Regarding the other types of the product concerned exported to the Community by the exporting producers, they will be subject to the applicable anti-dumping duty.

(5) It has to be noted that the product concerned and the main raw materials used to produce it have shown in the last years a considerable volatility in prices which could not be addressed by indexing the minimum import price. However, the potential for significant price changes is reduced if the undertakings accepted are limited in time. In any case, the forthcoming accession of Romania to the Community, resulting in the immediate discontinuation at the date of accession of the anti-dumping measures imposed by Regulation (EC) No 954/2006 as regards the exporting producers, will limit the duration of these undertakings.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).
[2] OJ C 77, 31.3.2005, p. 2.
[3] See page 4 of this Official Journal.

(6) The exporting producers will also provide the Commission with regular and detailed information concerning their exports to the Community, meaning that the undertakings can be monitored effectively by the Commission. Furthermore, the sales structure of these companies is such that the Commission considers that the risk of circumventing these undertakings is limited.

(7) In view of this, these undertakings are acceptable. However, the acceptance of the undertakings is limited to a period of nine months, without prejudice to the normal duration of the anti-dumping measures imposed by Regulation (EC) No 954/2006, due to reasons set out in recital (5) above. In addition, the Commission reserves the possibility to re-assess the acceptability of these undertakings, after consulting Member States, in due time.

(8) In order to enable the Commission to effectively monitor the exporting producers' compliance with the undertakings, when the request for release for free circulation pursuant to the undertakings is presented to the relevant customs authority, exemption from the duty will be conditional upon the presentation of an invoice containing at least the items of information listed in the Annex to Regulation (EC) No 954/2006. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that the shipment corresponds to the commercial documents. Where no such invoice is presented, or when the other conditions provided for by the above-mentioned Council Regulation are not met, the appropriate rate of anti-dumping duty shall instead be payable.

(9) To further ensure the respect of the undertakings, importers have been made aware by the above-mentioned Council Regulation that the non-fulfilment of the conditions provided for by that Regulation, or the withdrawal by the Commission of the acceptance of the undertakings, may lead to the customs debt being incurred for the relevant transactions.

(10) In the event of a breach or withdrawal of the undertakings, or in case of withdrawal of the acceptance of the undertakings by the Commission, the anti-dumping duty imposed in accordance with Article 9(4) of the basic Regulation shall automatically apply pursuant to Article 8(9) of the basic Regulation.

C. **CHANGE OF NAME**

(11) The company SC Artrom SA has informed the Commission that on 22 May 2006 it changed its name to SC TMK — Artrom SA to show that the company belongs to a group of companies.

(12) The Commission has examined the information submitted and has concluded that the change of name in no way affects the structure and legal form of the company or the Commission's findings. Therefore all references to SC Artrom SA should apply to SC TMK — Artrom SA,

HAS ADOPTED THIS DECISION:

Article 1

The undertakings offered by the exporting producers mentioned below in connection with the anti-dumping proceeding concerning imports of certain seamless pipes and tubes, of iron or steel, originating in *inter alia* Romania are hereby accepted.

Country	Company	Taric Additional Code
Romania	SC TMK — Artrom SA Draganesti Street No 30 230119 Slatina	A738
	SC Silcotub SA 93, Mihai Viteazu Bvd. 450131 Zalau Salaj County	A739
	SC Mittal Steel Roman SA Stefan cel Mare Street No 246 611040 Roman Neamt County	A740

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union* and shall remain in force for a period of nine months.

Done at Brussels, 23 June 2006.

For the Commission

Peter MANDELSON

Member of the Commission

COMMISSION

ADMINISTRATIVE COMMISSION OF THE EUROPEAN COMMUNITIES ON SOCIAL SECURITY FOR MIGRANT WORKERS

DECISION No 207

of 7 April 2006

concerning the interpretation of Article 76 and Article 79(3) of Regulation (EEC) No 1408/71 and of Article 10(1) of Regulation (EEC) No 574/72 relating to the overlapping of family benefits and allowances

(Text of relevance to the EEA and to the EU/Switzerland Agreement)

(2006/442/EC)

THE ADMINISTRATIVE COMMISSION OF THE EUROPEAN COMMUNITIES ON SOCIAL SECURITY FOR MIGRANT WORKERS,

Having regard to Article 81(a) of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community [1], under the terms of which it is responsible for dealing with any administrative question arising from Regulation (EEC) No 1408/71 and subsequent Regulations,

Having regard to Articles 76 and 79(3) of the said Regulation and to Article 10(1) of Council Regulation (EEC) No 574/72 [2],

Whereas:

(1) It is essential to know the scope of family benefits or family allowances payable 'by reason of carrying on an occupation' or 'by virtue of the pursuit of a professional or trade activity' found in Article 76 and Article 79(3) of Regulation (EEC) No 1408/71.

(2) Where family benefits are payable to two different persons in the course of the same period for the same member of the family under the legislation of one State and also under the legislation of the State in the territory of which the members of the family are residing, entitlement to family benefits or family allowances under the legislation of the first State shall be suspended, up to the amount of family benefits provided by the legislation of the latter State, under Article 76 of Regulation (EEC) No 1408/71 if the family benefits are payable 'by reason of carrying on an occupation' under the legislation of the latter State. Article 79(3) of Regulation (EEC) No 1408/71 contains a similar provision concerning benefits for pensioners and orphans.

(3) Article 76 and Article 79(3) of Regulation (EEC) No 1408/71 do not distinguish between benefits or allowances payable by reason of a non-salaried occupation or professional or trade activity and those payable by reason of a salaried occupation or professional or trade activity.

(4) Furthermore, the legislations of certain Member States provide that periods of suspension or interruption of actual occupation or professional or trade activity by reason of holidays, unemployment, temporary incapacity for work, strikes or lock-outs, shall be treated either as periods of occupation or professional or trade activity for the acquisition of entitlement to family benefits or family allowances or shall be regarded as periods of inactivity giving rise, where appropriate, either per se or as the result of a preceding occupation or professional or trade activity, to the payment of family benefits or family allowances.

[1] OJ L 149, 5.7.1971, p. 2. Regulation last amended by Regulation (EC) No 629/2006 of the European Parliament and of the Council (OJ L 114, 27.4.2006, p. 1).
[2] OJ L 74, 27.3.1972, p. 1. Regulation last amended by Regulation (EC) No 629/2006.

(5) In order to avoid any uncertainties or differences in interpretation, it is essential to define the scope of the expressions 'carrying on an occupation' and 'pursuit of a professional or trade activity'.

(6) It is also essential to know the scope of the term 'professional or trade activity' as referred to in Article 10(1) of Regulation (EEC) No 574/72.

(7) If family benefits or allowances are payable to two different persons in the course of the same period for the same member of the family under the legislation of one State and also under the legislation of another State according to which the acquisition of the right to benefits is not subject to conditions governing insurance, employment or self-employment, entitlement to family benefits under the legislation of the first State shall be suspended, up to the sum of family benefits provided for by the legislation of the latter State, under Article 10(1)(b)(i) of Regulation (EEC) No 574/72 where a professional or trade activity is carried out in the latter State. Article 10(1)(b)(ii) of Regulation (EEC) No 574/72 contains a similar provision concerning benefits for pensioners and orphans.

(8) In the matter of overlapping of family benefits or allowances, the purpose of Article 10(1) is to impart to the pursuit of a professional or trade activity in a Member State where entitlement to family benefits or allowances does not result from the pursuit of such activity the same effect as in Member States where this entitlement does arise from the pursuit of such activity. Articles 76 and 79(3) of Regulation (EEC) No 1408/71 and Article 10(1) of Regulation (EEC) No 574/72 should be interpreted in the same way.

(9) In a case where a worker's status of active employment was suspended due to this person's unpaid leave following the birth of a child and for the purpose of bringing up this child, the Court of Justice of the European Communities referred to Article 73 of Regulation (EEC) No 1408/71 in conjunction with Article 13(2)(a) of Regulation (EEC) No 1408/71 [1]. Such unpaid leave must therefore also be qualified as carrying out an occupation or professional or trade activity for the purposes of Articles 76 and 79(3) of Regulation (EEC) No 1408/71 and as well as for the purposes of Article 10(1) of Regulation (EEC) No 574/72. In this context the Court reiterated that the above mentioned provisions can only apply for as long as the person concerned has the status of an employed or self-employed person within the meaning of Article 1(a) of Regulation (EEC) No 1408/71 which requires that the person concerned is covered in at least one branch of social security. This excludes persons on unpaid leave who are no longer covered by any social security scheme of the relevant Member State.

(10) There can only be a non-exhaustive list of cases where during a period of leave a person is deemed to be exercising an occupation or a professional or trade activity, due to the variety of systems for unpaid leave in Member States and ongoing changes in national legislation. Therefore it is not appropriate to define all the cases in which such unpaid leave is equivalent to an occupation or professional or trade activity and those where the necessary close link to the gainful activity does not exist.

After deliberation in the light of the conditions laid down in Article 80(3) of Regulation (EEC) No 1408/71,

HAS DECIDED AS FOLLOWS:

1. For the purposes of Article 76 and Article 79(3) of Regulation (EEC) No 1408/71, family benefits or family allowances shall be regarded as payable 'by reason of carrying on an occupation' or 'by virtue of the pursuit of a professional or trade activity' in particular:

   (a) by the actual carrying on of an occupation or the pursuit of a professional or trade activity whether salaried or not; and also

[1] Judgment of 7 June 2005 in case C-543/03, '*Dodl and Oberhollenzer*/Tiroler Gebietskrankenkasse'.

(b) in the course of any period of temporary suspension of such occupation or professional or trade activity

(i) as a result of sickness, maternity, accident at work, occupational disease or unemployment, as long as wages or benefits, excluding pensions, are payable in respect of these contingencies; or

(ii) during paid leave, strike or lock-out; or

(iii) during unpaid leave for the purpose of child-raising, as long as this leave is deemed equivalent to such occupation or professional or trade activity in accordance with the relevant legislation.

2. For the purposes of Article 10(1) of Regulation (EEC) No 574/72 there shall be regarded as 'carrying out a professional or trade activity' in particular:

(a) the actual exercise of any professional or trade activity, whether salaried or not; and also

(b) the temporary suspension of such professional or trade activity

(i) as a result of sickness, maternity, accident at work, occupational disease or unemployment, as long as wages or benefits, excluding pensions, are payable in respect of these contingencies; or

(ii) during paid leave, strike or lock-out; or

(iii) during unpaid leave for the purpose of child-raising, as long as this leave is deemed equivalent to such professional or trade activity in accordance with the relevant legislation.

3. This Decision shall replace Decision No 119 of 24 February 1983. It shall enter into force on the first day following its publication in the *Official Journal of the European Union*.

The Chairman of the Administrative Commission
Bernhard SPIEGEL

EUROPEAN ECONOMIC AREA

THE EEA JOINT COMMITTEE

DECISION OF THE EEA JOINT COMMITTEE

No 42/2006

of 28 April 2006

amending Annex I (Veterinary and phytosanitary matters) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex I to the Agreement was amended by Decision of the EEA Joint Committee No 1/2006 of 27 January 2006 [1].

(2) Commission Regulation (EC) No 1053/2003 of 19 June 2003 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards rapid tests [2] is to be incorporated into the Agreement.

(3) Regulation (EC) No 1128/2003 of the European Parliament and of the Council of 16 June 2003 amending Regulation (EC) No 999/2001 as regards the extension of the period for transitional measures [3] is to be incorporated into the Agreement.

(4) Commission Regulation (EC) No 1139/2003 of 27 June 2003 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards monitoring programmes and specified risk material [4] is to be incorporated into the Agreement.

(5) Commission Regulation (EC) No 1234/2003 of 10 July 2003 amending Annexes I, IV and XI to Regulation (EC) No 999/2001 of the European Parliament and of the Council and Regulation (EC) No 1326/2001 as regards transmissible spongiform encephalopathies and animal feeding [5] is to be incorporated into the Agreement.

[1] OJ L 92, 30.3.2006, p. 17.
[2] OJ L 152, 20.6.2003, p. 8.
[3] OJ L 160, 28.6.2003, p. 1.
[4] OJ L 160, 28.6.2003, p. 22.
[5] OJ L 173, 11.7.2003, p. 6.

(6) Commission Regulation (EC) No 1809/2003 of 15 October 2003 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards rules for importation of live bovine animals and products of bovine, ovine and caprine origin from Costa Rica and New Caledonia [1] is to be incorporated into the Agreement.

(7) Commission Regulation (EC) No 1915/2003 of 30 October 2003 amending Annexes VII, VIII and IX to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the trade and import of ovine and caprine animals and the measures following the confirmation of transmissible spongiform encephalopathies in bovine, ovine and caprine animals [2] is to be incorporated into the Agreement.

(8) Commission Regulation (EC) No 2245/2003 of 19 December 2003 amending Annex III to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards monitoring of transmissible spongiform encephalopathies in ovine and caprine animals [3] is to be incorporated into the Agreement.

(9) Commission Regulation (EC) No 876/2004 of 29 April 2004 amending Annex VIII to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards trade in ovine and caprine animals for breeding [4] is to be incorporated into the Agreement.

(10) Regulation (EC) No 1234/2003 repeals Council Decision 2000/766/EC [5] and Commission Decision 2001/9/EC [6], which are incorporated into the Agreement and which are consequently to be repealed under the Agreement.

(11) This Decision is not to apply to Iceland and Liechtenstein,

HAS DECIDED AS FOLLOWS:

Article 1

Chapter I of Annex I to the Agreement shall be amended as follows:

1. The following indents shall be added in point 12 (Regulation (EC) No 999/2001 of the European Parliament and of the Council) in Part 7.1:

'— **32003 R 1053**: Commission Regulation (EC) No 1053/2003 of 19 June 2003 (OJ L 152, 20.6.2003, p. 8),

— **32003 R 1128**: Regulation (EC) No 1128/2003 of the European Parliament and of the Council of 16 June 2003 (OJ L 160, 28.6.2003, p. 1),

— **32003 R 1139**: Commission Regulation (EC) No 1139/2003 of 27 June 2003 (OJ L 160, 28.6.2003, p. 22),

— **32003 R 1234**: Commission Regulation (EC) No 1234/2003 of 10 July 2003 (OJ L 173, 11.7.2003, p. 6),

— **32003 R 1809**: Commission Regulation (EC) No 1809/2003 of 15 October 2003 (OJ L 265, 16.10.2003, p. 10),

[1] OJ L 265, 16.10.2003, p. 10.
[2] OJ L 283, 31.10.2003, p. 29.
[3] OJ L 333, 20.12.2003, p. 28.
[4] OJ L 162, 30.4.2004, p. 52.
[5] OJ L 306, 7.12.2000, p. 32.
[6] OJ L 2, 5.1.2001, p. 32.

— **32003 R 1915**: Commission Regulation (EC) No 1915/2003 of 30 October 2003 (OJ L 283, 31.10.2003, p. 29),

— **32003 R 2245**: Commission Regulation (EC) No 2245/2003 of 19 December 2003 (OJ L 333, 20.12.2003, p. 28),

— **32004 R 0876**: Commission Regulation (EC) No 876/2004 of 29 April 2004 (OJ L 162, 30.4.2004, p. 52).'

2. The adaptation text in point 12 (Regulation (EC) No 999/2001 of the European Parliament and of the Council) in Part 7.1 shall be amended as follows:

1. adaptation texts B and C shall be deleted,

2. present adaptation text D shall become adaptation text B.

3. The text of point 11 (Council Decision 2000/766/EC) in Part 7.1 and point 16 (Commission Decision 2001/9/EC) in Part 7.2 shall be deleted.

Article 2

The texts of Regulations (EC) No 1053/2003, (EC) No 1128/2003, (EC) No 1139/2003, (EC) No 1234/2003, (EC) No 1809/2003, (EC) No 1915/2003, (EC) No 2245/2003 and (EC) No 876/2004 in the Norwegian language, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 29 April 2006, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee
The President
R. WRIGHT

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 43/2006

of 28 April 2006

amending Annex I (Veterinary and phytosanitary matters) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex I to the Agreement was amended by Decision of the EEA Joint Committee No 19/2006 of 10 March 2006 [1].

(2) Commission Regulation (EC) No 1810/2005 of 4 November 2005 concerning a new authorisation for 10 years of an additive in feedingstuffs, the permanent authorisation of certain additives in feedingstuffs and the provisional authorisation of new uses of certain additives already authorised in feedingstuffs [2] is to be incorporated into the Agreement.

(3) Commission Regulation (EC) No 1811/2005 of 4 November 2005 concerning the provisional and permanent authorisations of certain additives in feedingstuffs and the provisional authorisation of a new use of an additive already authorised in feedingstuffs [3], as corrected by OJ L 10, 14.1.2006, p. 72, is to be incorporated into the Agreement.

(4) Commission Regulation (EC) No 1812/2005 of 4 November 2005 amending Regulations (EC) No 490/2004, (EC) No 1288/2004, (EC) No 521/2005 and (EC) No 833/2005 as regards the conditions for the authorisation of certain additives in feedingstuffs belonging to the groups of enzymes and micro-organisms [4] is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Chapter II of Annex I to the Agreement shall be amended as follows:

1. The following shall be added in points 1zm (Commission Regulation (EC) No 490/2004), 1zt (Commission Regulation (EC) No 1288/2004), 1zzi (Commission Regulation (EC) No 521/2005) and 1zzk (Commission Regulation (EC) No 833/2005):

', as amended by:

— **32005 R 1812**: Commission Regulation (EC) No 1812/2005 of 4 November 2005 (OJ L 291, 5.11.2005, p. 18).'

[1] OJ L 147, 1.6.2006, p. 43.
[2] OJ L 291, 5.11.2005, p. 5.
[3] OJ L 291, 5.11.2005, p. 12.
[4] OJ L 291, 5.11.2005, p. 18.

2. The following points shall be inserted after point 1zzp (Commission Regulation (EC) No 1459/2005):

'1zzq. **32005 R 1810**: Commission Regulation (EC) No 1810/2005 of 4 November 2005 concerning a new authorisation for 10 years of an additive in feedingstuffs, the permanent authorisation of certain additives in feedingstuffs and the provisional authorisation of new uses of certain additives already authorised in feedingstuffs (OJ L 291, 5.11.2005, p. 5).

1zzr. **32005 R 1811**: Commission Regulation (EC) No 1811/2005 of 4 November 2005 concerning the provisional and permanent authorisations of certain additives in feedingstuffs and the provisional authorisation of a new use of an additive already authorised in feedingstuffs (OJ L 291, 5.11.2005, p. 12), as corrected by OJ L 10, 14.1.2006, p. 72.'

Article 2

The texts of Regulations (EC) No 1810/2005, (EC) No 1811/2005, as corrected by OJ L 10, 14.1.2006, p. 72, and (EC) No 1812/2005 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 29 April 2006, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee
The President
R. WRIGHT

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 44/2006

of 28 April 2006

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 113/2005 of 30 September 2005 [1].

(2) Commission Directive 2005/67/EC of 18 October 2005 amending, for the purposes of their adaptation, Annexes I and II to Council Directive 86/298/EEC, Annexes I and II to Council Directive 87/402/EEC and Annexes I, II and III to Directive 2003/37/EC of the European Parliament and of the Council, relating to the type-approval of agricultural or forestry tractors [2] is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in points 20 (Council Directive 86/298/EEC), 22 (Council Directive 87/402/EEC) and 28 (Directive 2003/37/EC of the European Parliament and of the Council) of Chapter II of Annex II to the Agreement:

'— **32005 L 0067**: Commission Directive 2005/67/EC of 18 October 2005 (OJ L 273, 19.10.2005, p. 17).'

Article 2

The texts of Directive 2005/67/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 29 April 2006, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee
The President
R. WRIGHT

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(1) OJ L 339, 22.12.2005, p. 12.
(2) OJ L 273, 19.10.2005, p. 17.
(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 45/2006

of 28 April 2006

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 23/2006 of 10 March 2006 ([1]).

(2) Commission Directive 2005/70/EC of 20 October 2005 amending Council Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC as regards maximum residue levels for certain pesticides in and on cereals and certain products of animal and plant origin ([2]) is to be incorporated into the Agreement.

(3) Commission Directive 2005/74/EC of 25 October 2005 amending Council Directive 90/642/EEC as regards the maximum residue levels of ethofumesate, lambda-cyhalothrin, methomyl, pymetrozine and thiabendazole fixed therein ([3]) is to be incorporated into the Agreement.

(4) Commission Directive 2005/76/EC of 8 November 2005 amending Council Directives 90/642/EEC and 86/362/EEC as regards the maximum residue levels of kresoxim-methyl, cyromazine, bifenthrin, metalaxyl and azoxystrobin fixed therein ([4]) is to be incorporated into the Agreement.

(5) Commission Regulation (EC) No 1895/2005 of 18 November 2005 on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food ([5]) is to be incorporated into the Agreement.

(6) Commission Directive 2005/79/EC of 18 November 2005 amending Directive 2002/72/EC relating to plastic materials and articles intended to come into contact with food ([6]) is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Chapter XII of Annex II to the Agreement shall be amended as follows:

1. The following indent shall be added in points 13 (Council Directive 76/895/EEC), 38 (Council Directive 86/362/EEC), 39 (Council Directive 86/363/EEC) and 54 (Council Directive 90/642/EEC):

'— **32005 L 0070**: Commission Directive 2005/70/EC of 20 October 2005 (OJ L 276, 21.10.2005, p. 35).'

([1]) OJ L 147, 1.6.2006, p. 36.
([2]) OJ L 276, 21.10.2005, p. 35.
([3]) OJ L 282, 26.10.2005, p. 9.
([4]) OJ L 293, 9.11.2005, p. 14.
([5]) OJ L 302, 19.11.2005, p. 28.
([6]) OJ L 302, 19.11.2005, p. 35.

2. The following indent shall be added in points 38 (Council Directive 86/362/EEC) and 54 (Council Directive 90/642/EEC):

'— **32005 L 0076**: Commission Directive 2005/76/EC of 8 November 2005 (OJ L 293, 9.11.2005, p. 14).'

3. The following indent shall be added in point 54 (Council Directive 90/642/EEC):

'— **32005 L 0074**: Commission Directive 2005/74/EC of 25 October 2005 (OJ L 282, 26.10.2005, p. 9).'

4. The following indent shall be added in point 54zzb (Commission Directive 2002/72/EC):

'— **32005 L 0079**: Commission Directive 2005/79/EC of 18 November 2005 (OJ L 302, 19.11.2005, p. 35).'

5. The following point shall be inserted after point 54zzv (Commission Directive 2005/38/EC):

'54zzw. **32005 R 1895**: Commission Regulation (EC) No 1895/2005 of 18 November 2005 on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food (OJ L 302, 19.11.2005, p. 28).'

Article 2

The texts of Regulation (EC) No 1895/2005 and Directives 2005/70/EC, 2005/74/EC, 2005/76/EC and 2005/79/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 29 April 2006, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee
The President
R. WRIGHT

(*) No constitutional requirements indicated

DECISION OF THE EEA JOINT COMMITTEE

No 46/2006

of 28 April 2006

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 23/2006 of 10 March 2006 ([1]).

(2) Commission Directive 2005/63/EC of 3 October 2005 correcting Directive 2005/26/EC concerning the list of food ingredients or substances provisionally excluded from Annex IIIa of Directive 2000/13/EC of the European Parliament and of the Council ([2]) is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following shall be added in point 54zzu (Commission Directive 2005/26/EC) of Chapter XII of Annex II to the Agreement:

', as amended by:

— **32005 L 0063**: Commission Directive 2005/63/EC of 3 October 2005 (OJ L 258, 4.10.2005, p. 3).'

Article 2

The texts of Directive 2005/63/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 29 April 2006, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee
The President
R. WRIGHT

([1]) OJ L 147, 1.6.2006, p. 36.
([2]) OJ L 258, 4.10.2005, p. 3.
(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 47/2006

of 28 April 2006

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 28/2006 of 10 March 2006 [1].

(2) Commission Decision 2005/747/EC of 21 October 2005 amending for the purposes of adapting to technical progress the Annex to Directive 2002/95/EC of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment [2] is to be incorporated into the Agreement.

(3) Directive 2005/59/EC of the European Parliament and of the Council of 26 October 2005 amending for the 28th time Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (toluene and trichlorobenzene) [3] is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Chapter XV of Annex II to the Agreement shall be amended as follows:

1. The following indent shall be added in point 4 (Council Directive 76/769/EEC):

'— **32005 L 0059**: Directive 2005/59/EC of the European Parliament and of the Council of 26 October 2005 (OJ L 309, 25.11.2005, p. 13).'

2. The following indent shall be added in point 12q (Directive 2002/95/EC of the European Parliament and of the Council):

'— **32005 D 0747**: Commission Decision 2005/747/EC of 21 October 2005 (OJ L 280, 25.10.2005, p. 18).'

Article 2

The texts of Directive 2005/59/EC and Decision 2005/747/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

[1] OJ L 147, 1.6.2006, p. 42.
[2] OJ L 280, 25.10.2005, p. 18.
[3] OJ L 309, 25.11.2005, p. 13.

Article 3

This Decision shall enter into force on 29 April 2006, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee
The President
R. WRIGHT

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 48/2006

of 28 April 2006

amending Annex XX (Environment) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex XX to the Agreement was amended by Decision of the EEA Joint Committee No 36/2006 of 10 March 2006 [1].

(2) Commission Decision 2002/739/EC of 3 September 2002 establishing revised ecological criteria for the award of the Community eco-label to indoor paints and varnishes and amending Decision 1999/10/EC [2] is to be incorporated into the Agreement.

(3) Commission Decision 2002/740/EC of 3 September 2002 establishing revised ecological criteria for the award of the Community eco-label to bed mattresses and amending Decision 98/634/EC [3] is to be incorporated into the Agreement.

(4) Commission Decision 2002/741/EC of 4 September 2002 establishing revised ecological criteria for the award of the Community eco-label to copying and graphic paper and amending Decision 1999/554/EC [4] is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following points shall be inserted after point 2u (Commission Decision 2005/360/EC) of Annex XX to the Agreement:

'2v. **32002 D 0739**: Commission Decision 2002/739/EC of 3 September 2002 establishing revised ecological criteria for the award of the Community eco-label to indoor paints and varnishes and amending Decision 1999/10/EC (OJ L 236, 4.9.2002, p. 4).

2w. **32002 D 0740**: Commission Decision 2002/740/EC of 3 September 2002 establishing revised ecological criteria for the award of the Community eco-label to bed mattresses and amending Decision 98/634/EC (OJ L 236, 4.9.2002, p. 10).

2x. **32002 D 0741**: Commission Decision 2002/741/EC of 4 September 2002 establishing revised ecological criteria for the award of the Community eco-label to copying and graphic paper and amending Decision 1999/554/EC (OJ L 237, 5.9.2002, p. 6).'

[1] OJ L 147, 1.6.2006, p. 55.
[2] OJ L 236, 4.9.2002, p. 4.
[3] OJ L 236, 4.9.2002, p. 10.
[4] OJ L 237, 5.9.2002, p. 6.

Article 2

The texts of Decisions 2002/739/EC, 2002/740/EC and 2002/741/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 29 April 2006, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee
The President
R. WRIGHT

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 49/2006

of 28 April 2006

amending Annex XX (Environment) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex XX to the Agreement was amended by Decision of the EEA Joint Committee No 36/2006 of 10 March 2006 [1].

(2) Directive 2005/33/EC of the European Parliament and of the Council of 6 July 2005 amending Directive 1999/32/EC [2] is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XX to the Agreement shall be amended as follows:

1. The following shall be added in point 21ad (Council Directive 1999/32/EC):

', as amended by:

— **32005 L 0033**: Directive 2005/33/EC of the European Parliament and of the Council of 6 July 2005 (OJ L 191, 22.7.2005, p. 59).'

2. The following shall be added in the adaptation text in point 21ad (Council Directive 1999/32/EC):

'In Article 2(3l), the words ", and Iceland, with regard to all its territory" shall be inserted after the word "Treaty".'

Article 2

The texts of Directive 2005/33/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 29 April 2006, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee
The President
R. WRIGHT

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[1] OJ L 147, 1.6.2006, p. 55.
[2] OJ L 191, 22.7.2005, p. 59.
(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 50/2006

of 28 April 2006

amending Annex XX (Environment) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex XX to the Agreement was amended by Decision of the EEA Joint Committee No 36/2006 of 10 March 2006 [1].

(2) Council Decision 2005/673/EC of 20 September 2005 amending Annex II of Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles [2] is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 32e (Directive 2000/53/EC of the European Parliament and of the Council) of Annex XX to the Agreement:

'— **32005 D 0673**: Council Decision 2005/673/EC of 20 September 2005 (OJ L 254, 30.9.2005, p. 69).'

Article 2

The texts of Decision 2005/673/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 29 April 2006, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee
The President
R. WRIGHT

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[1] OJ L 147, 1.6.2006, p. 55.
[2] OJ L 254, 30.9.2005, p. 69.
(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 51/2006

of 28 April 2006

amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex XXI to the Agreement was amended by Decision of the EEA Joint Committee No 16/2006 of 27 January 2006 [1].

(2) Regulation (EC) No 1158/2005 of the European Parliament and of the Council of 6 July 2005 amending Council Regulation (EC) No 1165/98 concerning short-term statistics [2] is to be incorporated into the Agreement.

(3) Regulation (EC) No 1161/2005 of the European Parliament and of the Council of 6 July 2005 on the compilation of quarterly non-financial accounts by institutional sector [3] is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XXI to the Agreement shall be amended as follows:

1. The following shall be added in point 2 (Council Regulation (EC) No 1165/98):

', as amended by:

— **32005 R 1158**: Regulation (EC) No 1158/2005 of the European Parliament and of the Council of 6 July 2005 (OJ L 191, 22.7.2005, p. 1).'

2. The following point shall be inserted after point 19s (Regulation (EC) No 184/2005 of the European Parliament and of the Council):

'19t. **32005 R 1161**: Regulation (EC) No 1161/2005 of the European Parliament and of the Council of 6 July 2005 on the compilation of quarterly non-financial accounts by institutional sector (OJ L 191, 22.7.2005, p. 22).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

This Regulation shall not apply to Liechtenstein.'

[1] OJ L 92, 30.3.2006, p. 45.
[2] OJ L 191, 22.7.2005, p. 1.
[3] OJ L 191, 22.7.2005, p. 22.

Article 2

The texts of Regulations (EC) Nos 1158/2005 and 1161/2005 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 29 April 2006, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee
The President
R. WRIGHT

(*) Constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 52/2006

of 28 April 2006

amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex XXI to the Agreement was amended by Decision of the EEA Joint Committee No16/2006 of 27 January 2006 ([1]).

(2) Commission Regulation (EC) No 1445/2005 of 5 September 2005 defining the proper quality evaluation criteria and the contents of the quality reports for waste statistics for the purposes of Regulation (EC) No 2150/2002 of the European Parliament and of the Council ([2]) is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 27a (Commission Regulation EC (No) 782/2005) of Annex XXI to the Agreement:

'27b. **32005 R 1445**: Commission Regulation (EC) No 1445/2005 of 5 September 2005 defining the proper quality evaluation criteria and the contents of the quality reports for waste statistics for the purposes of Regulation (EC) No 2150/2002 of the European Parliament and of the Council (OJ L 229, 6.9.2005, p. 6).'

Article 2

The texts of Regulation (EC) No 1445/2005 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 29 April 2006, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee

The President

R. WRIGHT

([1]) OJ L 92, 30.3.2006, p. 45.
([2]) OJ L 229, 6.9.2005, p. 6.
(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 53/2006

of 28 April 2006

amending Annex XXII (Company law) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex XXII to the Agreement was amended by Decision of the EEA Joint Committee No 37/2006 of 10 March 2006 [1].

(2) Commission Regulation (EC) No 2106/2005 of 21 December 2005 amending Regulation (EC) No 1725/2003 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council, as regards International Accounting Standard (IAS) 39 [2] is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 10ba (Commission Regulation (EC) No 1725/2003) of Annex XXII to the Agreement:

'— **32005 R 2106**: Commission Regulation (EC) No 2106/2005 of 21 December 2005 (OJ L 337, 22.12.2005, p. 16).'

Article 2

The texts of Regulation (EC) No 2106/2005 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force 20 days after its adoption, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee
The President
R. WRIGHT

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[1] OJ L 147, 1.6.2006, p. 56.
[2] OJ L 337, 22.12.2005, p. 16.
(*) No Constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 54/2006

of 28 April 2006

amending Annex XXII (Company law) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex XXII to the Agreement was amended by Decision of the EEA Joint Committee No 37/2006 of 10 March 2006 [1].

(2) Commission Regulation (EC) No 108/2006 of 11 January 2006 amending Regulation (EC) No 1725/2003 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Standards (IFRS) 1, 4, 6 and 7, International Accounting Standards (IAS) 1, 14, 17, 32, 33, and 39, International Financial Reporting Interpretations Committee's (IFRIC) Interpretation 6 [2] is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 10ba (Commission Regulation (EC) No 1725/2003) of Annex XXII to the Agreement:

'— **32006 R 0108**: Commission Regulation (EC) No 108/2006 of 11 January 2006 (OJ L 24, 27.1.2006, p. 1).'

Article 2

The texts of Regulation (EC) No 108/2006 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force 20 days after its adoption, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 28 April 2006.

For the EEA Joint Committee
The President
R. WRIGHT

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[1] OJ L 147, 1.6.2006, p. 56.
[2] OJ L 24, 27.1.2006, p. 1.
(*) No Constitutional requirements indicated.