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## Legislation

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## II

(*Non-legislative acts*)

## INTERNATIONAL AGREEMENTS

### **Information concerning the date of entry into force of the Agreement between the European Union and Japan on mutual legal assistance in criminal matters**

The Agreement between the European Union and Japan on mutual legal assistance in criminal matters (<sup>(1)</sup>) signed in Brussels on 30 November 2009 and in Tokyo on 15 December 2009, will enter into force on 2 January 2011, in accordance with Article 31 of the Agreement.

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<sup>(1)</sup> OJ L 39, 12.2.2010, p. 20.

# REGULATIONS

## COUNCIL REGULATION (EU) No 1256/2010

of 17 December 2010

### **fixing the fishing opportunities for certain fish stocks applicable in the Black Sea for 2011**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) According to Article 43(3) of the Treaty, the Council, on a proposal from the Commission, is to adopt measures on the fixing and allocation of fishing opportunities.
- (2) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy<sup>(1)</sup> requires that measures governing access to waters and resources and the sustainable pursuit of fishing activities be established taking into account available scientific advice and, in particular, the report drawn up by the Scientific, Technical and Economic Committee for Fisheries.
- (3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities by fishery or group of fisheries, including certain conditions functionally linked thereto, as appropriate. Fishing opportunities should be distributed among Member States in such a way as to assure each Member State relative stability of fishing activities for each stock or fishery and having due regard to the objectives of the common fisheries policy established in Regulation (EC) No 2371/2002.
- (4) The total allowable catch (TAC) should be established on the basis of the available scientific advice and by taking into account the biological and socioeconomic aspects whilst ensuring fair treatment between fishing sectors, as well as in the light of the opinions expressed during the consultation of stakeholders.
- (5) The use of fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy<sup>(2)</sup> and in particular to Articles 33 and 34 of that Regulation concerning the recording of catches and fishing effort

and the notification of data on the exhaustion of fishing opportunities. It is therefore necessary to specify codes to be used by the Member States when sending data to the Commission relating to landings of stocks subject to this Regulation.

- (6) In accordance with Article 2 of Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas<sup>(3)</sup>, the stocks that are subject to the various measures referred to therein are to be identified.
- (7) In order to avoid interruption of fishing activities and to ensure the livelihood of the fishermen of the Union, it is important to open these fisheries on 1 January 2011. For reasons of urgency, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### **SUBJECT MATTER, SCOPE AND DEFINITIONS**

#### *Article 1*

##### **Subject matter**

This Regulation fixes fishing opportunities for 2011 for certain fish stocks in the Black Sea.

#### *Article 2*

##### **Scope**

This Regulation shall apply to EU vessels operating in the Black Sea.

#### *Article 3*

##### **Definitions**

For the purposes of this Regulation the following definitions shall apply:

- (a) 'GFCM' means General Fisheries Commission for the Mediterranean;
- (b) 'Black Sea' means the GFCM geographical sub-area as defined in resolution GFCM/33/2009/2;

<sup>(1)</sup> OJ L 358, 31.12.2002, p. 59.

<sup>(2)</sup> OJ L 343, 22.12.2009, p. 1.

<sup>(3)</sup> OJ L 115, 9.5.1996, p. 3.

- (c) 'EU vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;
- (d) 'total allowable catch (TAC)' means the quantity that can be taken from each stock each year;
- (e) 'quota' means a proportion of the TAC allocated to the Union, a Member State or a third country.

**CHAPTER II**  
**FISHING OPPORTUNITIES**

*Article 4*

**TACs and allocations**

The TACs, the allocation of such TACs among Member States, and the conditions functionally linked thereto, where appropriate, are set out in the Annex.

*Article 5*

**Special provisions on allocations**

The allocation of fishing opportunities among Member States as set out in this Regulation shall be without prejudice to:

- (a) exchanges made pursuant to Article 20(5) of Regulation (EC) No 2371/2002;
- (b) reallocations made pursuant to Article 37 of Regulation (EC) No 1224/2009;
- (c) additional landings allowed under Article 3 of Regulation (EC) No 847/96;
- (d) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96;

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

Done at Brussels, 17 December 2010.

- (e) deductions made pursuant to Articles 37, 105 and 107 of Regulation (EC) No 1224/2009.

*Article 6*

**Conditions for landing catches and by-catches**

Fish from stocks for which fishing opportunities are fixed by this Regulation shall be retained on board or landed only if:

- (a) the catches have been taken by vessels of a Member State having a quota and that quota is not exhausted; or
- (b) the catches consist of a share in a Union quota which has not been allocated by quota among Member States, and that Union quota has not been exhausted.

**CHAPTER III**

**FINAL PROVISIONS**

*Article 7*

**Data transmission**

When, pursuant to Articles 33 and 34 of Regulation (EC) No 1224/2009, Member States send the Commission data relating to landings of quantities of stocks caught, they shall use the stock codes set out in the Annex to this Regulation.

*Article 8*

**Entry into force**

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

It shall apply from 1 January 2011.

*For the Council*

*The President*

S. VANACKERE

## ANNEX

**TACS APPLICABLE TO EU VESSELS IN AREAS WHERE TACS EXIST BY SPECIES AND BY AREA**

The following tables set out the TACs and quotas (in tonnes live weight) by stock and conditions functionally linked thereto, where appropriate.

Fish stocks are referred to following the alphabetical order of the Latin names of the species. The following table of correlation between Latin names and common names is given for the purposes of this Regulation:

Scientific name	Alpha-3 code	Common name
<i>Psetta maxima</i>	TUR	Turbot
<i>Sprattus sprattus</i>	SPR	Sprat

Species:	Turbot <i>Psetta maxima</i>	Zone:	Black Sea TUR/F3742C
Bulgaria	43,2 (¹)		
Romania	43,2 (¹)		
EU	86,4 (¹)		
TAC	Not relevant		<p>Analytical TAC</p> <p>Article 3 of Regulation (EC) No 847/96 does not apply.</p> <p>Article 4 of Regulation (EC) No 847/96 does not apply.</p>

(¹) No fishing activity shall be permitted from 15 April to 15 June 2011.

Species:	Sprat <i>Sprattus sprattus</i>	Zone:	Black Sea SPR/F3742C
Bulgaria	8 032,5		
Romania	3 442,5		
EU	11 475		
TAC	Not relevant		<p>Analytical TAC</p> <p>Article 3 of Regulation (EC) No 847/96 does not apply.</p> <p>Article 4 of Regulation (EC) No 847/96 does not apply.</p>

**COUNCIL REGULATION (EU) No 1257/2010**  
**of 20 December 2010**

**extending the temporary derogation measures from Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community and Regulation No 1 of 15 April 1958 determining the languages to be used by the European Atomic Energy Community introduced by Regulation (EC) No 920/2005**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 342 thereof,

Whereas:

- (1) Council Regulation (EC) No 920/2005 of 13 June 2005 amending Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community and Regulation No 1 of 15 April 1958 determining the languages to be used by the European Atomic Energy Community and introducing temporary derogation measures from those Regulations (<sup>(1)</sup>) accorded Irish the status of official language and working language of the institutions of the European Union.
- (2) Regulation (EC) No 920/2005 provides that, for practical reasons and on a transitional basis, the institutions of the Union are not to be bound by the obligation to draft and translate all acts, including judgments of the Court of Justice, in the Irish language, with the exception of Regulations adopted jointly by the European Parliament and the Council. It is for the Council to determine, not later than 4 years from the date of application of Regulation (EC) No 920/2005 and at 5-yearly intervals thereafter, whether to put an end to this derogation.

(3) The institutions of the Union will continue to take steps to improve public access to information in Irish on the activities of the Union. Nevertheless, there are still difficulties in recruiting a sufficient number of Irish-language translators, legal/linguistic experts, interpreters and assistants. It is therefore necessary to extend the derogation provided for in the first paragraph of Article 2 of Regulation (EC) No 920/2005 for a period of 5 years from 1 January 2012,

HAS ADOPTED THIS REGULATION:

*Article 1*

The derogation provided for in the first paragraph of Article 2 of Regulation (EC) No 920/2005 is hereby extended for a period of 5 years from 1 January 2012.

This Article shall not apply to Regulations adopted jointly by the European Parliament and the Council.

*Article 2*

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

It shall apply from 1 January 2012.

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

Done at Brussels, 20 December 2010.

*For the Council  
The President  
J. SCHAUVLIEGE*

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<sup>(1)</sup> OJ L 156, 18.6.2005, p. 3.

**COUNCIL REGULATION (EU) No 1258/2010  
of 20 December 2010**

**fixing for the 2011 fishing year the guide prices and Union producer prices for certain fishery products pursuant to Regulation (EC) No 104/2000**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) According to Article 43(3) of the Treaty, the Council, on a proposal from the Commission, is to adopt measures on the fixing of prices.

(2) Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products (<sup>(1)</sup>) requires that guide prices and Union producer prices for each fishing year be fixed in order to determine price levels for intervention on the market for certain fisheries products.

(3) It is incumbent upon the Council to fix the guide prices for each of the products and groups of products listed in Annexes I and II to Regulation (EC) No 104/2000, and the Union producer prices for the products listed in Annex III to that Regulation.

(4) On the basis of the data currently available on the prices for the products concerned and the criteria referred to in Article 18(2) of Regulation (EC) No 104/2000, the guide prices should be increased, maintained or reduced for the 2011 fishing year depending on the species.

(5) It is appropriate to establish the Union producer price for one of the products listed in Annex III to Regulation (EC) No 104/2000 and calculate the Union producer prices for the others by means of the conversion factors established by Commission Regulation (EC) No 802/2006 of 30 May 2006 fixing the conversion factors applicable to fish of the genera *Thunnus* and *Euthynnus* (<sup>(2)</sup>).

(6) On the basis of the criteria laid down in the first and second indents of Article 18(2) and in Article 26(1) of Regulation (EC) No 104/2000, the Union producer price for the 2011 fishing year should be adjusted,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the fishing year from 1 January to 31 December 2011, the guide prices as provided for in Article 18(1) of Regulation (EC) No 104/2000 shall be as set out in Annex I to this Regulation.

*Article 2*

For the fishing year from 1 January to 31 December 2011, the Union producer prices as provided for in Article 26(1) of Regulation (EC) No 104/2000 shall be as set out in Annex II to this Regulation.

*Article 3*

This Regulation shall enter into force on 1 January 2011.

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

Done at Brussels, 20 December 2010.

*For the Council  
The President  
J. SCHAUVLIEGE*

<sup>(1)</sup> OJ L 17, 21.1.2000, p. 22.

<sup>(2)</sup> OJ L 144, 31.5.2006, p. 15.

## ANNEX I

Annexes	Species Products listed in Annexes I and II to Regulation (EC) No 104/2000	Commercial presentation	Guide price (EUR/tonne)
I	1. Herring of the species <i>Clupea harengus</i>	Whole fish	274
	2. Sardines of the species <i>Sardina pilchardus</i>	Whole fish	574
	3. Dogfish ( <i>Squalus acanthias</i> )	Whole fish or gutted fish with head	1 090
	4. Spotted dogfish ( <i>Scyliorhinus spp.</i> )	Whole fish or gutted fish with head	704
	5. Redfish ( <i>Sebastes spp.</i> )	Whole fish	1 212
	6. Cod of the species <i>Gadus morhua</i>	Whole fish or gutted fish with head	1 589
	7. Saithe ( <i>Pollachius virens</i> )	Whole fish or gutted fish with head	799
	8. Haddock ( <i>Melanogrammus aeglefinus</i> )	Whole fish or gutted fish with head	956
	9. Whiting ( <i>Merlangius merlangus</i> )	Whole fish or gutted fish with head	889
	10. Ling ( <i>Molva spp.</i> )	Whole fish or gutted fish with head	1 153
	11. Mackerel of the species <i>Scomber scombrus</i>	Whole fish	320
	12. Mackerel of the species <i>Scomber japonicus</i>	Whole fish	285
	13. Anchovy ( <i>Engraulis spp.</i> )	Whole fish	1 274
	14. Plaice ( <i>Pleuronectes platessa</i> )	Whole fish or gutted fish with head from 1.1.2011 to 30.4.2011	1 026
		Whole fish or gutted fish with head from 1.5.2011 to 31.12.2011	1 425
	15. Hake of the species <i>Merluccius merluccius</i>	Whole fish or gutted fish with head	3 318
	16. Megrim ( <i>Lepidorhombus spp.</i> )	Whole fish or gutted fish with head	2 342
	17. Dab ( <i>Limanda limanda</i> )	Whole fish or gutted fish with head	803
	18. Common flounder ( <i>Platichthys flesus</i> )	Whole fish or gutted fish with head	486
	19. Albacore or longfinned tunas ( <i>Thunnus alalunga</i> )	Whole fish	2 308
		Gutted fish with head	2 437
	20. Cuttlefish ( <i>Sepia officinalis</i> and <i>Rossia macrosoma</i> )	Whole	1 781
	21. Monkfish ( <i>Lophius spp.</i> )	Whole fish or gutted fish with head	2 923
		Without head	6 015

Annexes	Species Products listed in Annexes I and II to Regulation (EC) No 104/2000	Commercial presentation	Guide price (EUR/tonne)
	22. Shrimp of the species <i>Crangon crangon</i>	Simply boiled in water	2 423
	23. Northern prawn ( <i>Pandalus borealis</i> )	Simply boiled in water	6 668
		Fresh or chilled	1 614
	24. Edible crab ( <i>Cancer pagurus</i> )	Whole	1 676
	25. Norway lobster ( <i>Nephrops norvegicus</i> )	Whole	5 119
		Tails	3 979
	26. Sole ( <i>Solea</i> spp.)	Whole fish or gutted fish with head	6 843
II	1. Greenland halibut ( <i>Reinhardtius hippoglossoides</i> )	Frozen, in original packages containing the same products	1 916
	2. Hake of the genus <i>Merluccius</i> spp.	Frozen, whole, in original packages containing the same products	1 232
		Frozen, filleted, in original packages containing the same products	1 498
	3. Sea bream ( <i>Dentex dentex</i> and <i>Pagellus</i> spp.)	Frozen, in lots or in original packages containing the same products	1 447
	4. Swordfish ( <i>Xiphias gladius</i> )	Frozen, whole, in original packages containing the same products	4 058
	5. Cuttlefish ( <i>Sepia officinalis</i> ) ( <i>Rossia macrosoma</i> ) ( <i>Sepiola rondeletti</i> )	Frozen, in original packages containing the same products	1 915
	6. Octopus ( <i>Octopus</i> spp.)	Frozen, in original packages containing the same products	2 161
	7. Squid ( <i>Loligo</i> spp.)	Frozen, in original packages containing the same products	1 173
	8. Squid ( <i>Ommastrephes sagittatus</i> )	Frozen, in original packages containing the same products	961
	9. <i>Illex argentinus</i>	Frozen, in original packages containing the same products	873
	10. Prawn of the family <i>Penaeidae</i>		
	— Prawn of the species <i>Parapenaeus longirostris</i>	Frozen, in original packages containing the same products	4 072
	— Other species of the family <i>Penaeidae</i>	Frozen, in original packages containing the same products	7 813

## ANNEX II

Species Products listed in Annex III to Regulation (EC) No 104/2000	Weight	Commercial specifications	Union producer price (EUR/tonne)
Yellowfin tuna ( <i>Thunnus albacares</i> )	weighing more than 10 kg each	Whole	1 200
		Gilled and gutted	
		Other	
	weighing not more than 10 kg each	Whole	
		Gilled and gutted	
		Other	
Albacore ( <i>Thunnus alalunga</i> )	weighing more than 10 kg each	Whole	
		Gilled and gutted	
		Other	
	weighing not more than 10 kg each	Whole	
		Gilled and gutted	
		Other	
Skipjack ( <i>Katsuwonus pelamis</i> )		Whole	
		Gilled and gutted	
		Other	
Bluefin tuna ( <i>Thunnus thynnus</i> )		Whole	
		Gilled and gutted	
		Other	
Other species of the genera <i>Thunnus</i> and <i>Euthynnus</i>		Whole	
		Gilled and gutted	
		Other	

**COUNCIL REGULATION (EU) No 1259/2010  
of 20 December 2010**

**implementing enhanced cooperation in the area of the law applicable to divorce and legal separation**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(3) thereof,

Having regard to Council Decision 2010/405/EU of 12 July 2010 authorising enhanced cooperation in the area of the law applicable to divorce and legal separation<sup>(1)</sup>,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The Union has set itself the objective of maintaining and developing an area of freedom, security and justice, in which the free movement of persons is assured. For the gradual establishment of such an area, the Union must adopt measures relating to judicial cooperation in civil matters having cross-border implications, particularly when necessary for the proper functioning of the internal market.
- (2) Pursuant to Article 81 of the Treaty on the Functioning of the European Union, those measures are to include measures aimed at ensuring the compatibility of the rules applicable in the Member States concerning conflict of laws.
- (3) On 14 March 2005 the Commission adopted a Green Paper on applicable law and jurisdiction in divorce matters. The Green Paper launched a wide-ranging public consultation on possible solutions to the problems that may arise under the current situation.
- (4) On 17 July 2006 the Commission proposed a Regulation amending Council Regulation (EC) No 2201/2003<sup>(2)</sup> as

regards jurisdiction and introducing rules concerning applicable law in matrimonial matters.

(5) At its meeting in Luxembourg on 5 and 6 June 2008, the Council concluded that there was a lack of unanimity on the proposal and that there were insurmountable difficulties that made unanimity impossible both then and in the near future. It established that the proposal's objectives could not be attained within a reasonable period by applying the relevant provisions of the Treaties.

(6) Belgium, Bulgaria, Germany, Greece, Spain, France, Italy, Latvia, Luxembourg, Hungary, Malta, Austria, Portugal, Romania and Slovenia subsequently addressed a request to the Commission indicating that they intended to establish enhanced cooperation between themselves in the area of applicable law in matrimonial matters. On 3 March 2010, Greece withdrew its request.

(7) On 12 July 2010 the Council adopted Decision 2010/405/EU authorising enhanced cooperation in the area of the law applicable to divorce and legal separation.

(8) According to Article 328(1) of the Treaty on the Functioning of the European Union, when enhanced cooperation is being established, it is to be open to all Member States, subject to compliance with any conditions of participation laid down by the authorising decision. It is also to be open to them at any other time, subject to compliance with the acts already adopted within that framework, in addition to those conditions. The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible. This Regulation should be binding in its entirety and directly applicable only in the participating Member States in accordance with the Treaties.

(9) This Regulation should create a clear, comprehensive legal framework in the area of the law applicable to divorce and legal separation in the participating Member States, provide citizens with appropriate outcomes in terms of legal certainty, predictability and flexibility, and prevent a situation from arising where one of the spouses applies for divorce before the other one does in order to ensure that the proceeding is governed by a given law which he or she considers more favourable to his or her own interests.

<sup>(1)</sup> OJ L 189, 22.7.2010, p. 12.

<sup>(2)</sup> Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility (OJ L 338, 23.12.2003, p. 1).

- (10) The substantive scope and enacting terms of this Regulation should be consistent with Regulation (EC) No 2201/2003. However, it should not apply to marriage annulment.

This Regulation should apply only to the dissolution or loosening of marriage ties. The law determined by the conflict-of-laws rules of this Regulation should apply to the grounds for divorce and legal separation.

Preliminary questions such as legal capacity and the validity of the marriage, and matters such as the effects of divorce or legal separation on property, name, parental responsibility, maintenance obligations or any other ancillary measures should be determined by the conflict-of-laws rules applicable in the participating Member State concerned.

- (11) In order to clearly delimit the territorial scope of this Regulation, the Member States participating in the enhanced cooperation should be specified.

- (12) This Regulation should be universal, i.e. it should be possible for its uniform conflict-of-laws rules to designate the law of a participating Member State, the law of a non-participating Member State or the law of a State which is not a member of the European Union.

- (13) This Regulation should apply irrespective of the nature of the court or tribunal seized. Where applicable, a court should be deemed to be seized in accordance with Regulation (EC) No 2201/2003.

- (14) In order to allow the spouses to choose an applicable law with which they have a close connection or, in the absence of such choice, in order that that law might apply to their divorce or legal separation, the law in question should apply even if it is not that of a participating Member State. Where the law of another Member State is designated, the network created by Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters<sup>(1)</sup>, could play a part in assisting the courts with regard to the content of foreign law.

- (15) Increasing the mobility of citizens calls for more flexibility and greater legal certainty. In order to achieve that objective, this Regulation should enhance the parties' autonomy in the areas of divorce and legal separation by giving them a limited possibility to choose the law applicable to their divorce or legal separation.

- (16) Spouses should be able to choose the law of a country with which they have a special connection or the law of the *forum* as the law applicable to divorce and legal

separation. The law chosen by the spouses must be consonant with the fundamental rights recognised by the Treaties and the Charter of Fundamental Rights of the European Union.

- (17) Before designating the applicable law, it is important for spouses to have access to up-to-date information concerning the essential aspects of national and Union law and of the procedures governing divorce and legal separation. To guarantee such access to appropriate, good-quality information, the Commission regularly updates it in the Internet-based public information system set up by Council Decision 2001/470/EC.

- (18) The informed choice of both spouses is a basic principle of this Regulation. Each spouse should know exactly what are the legal and social implications of the choice of applicable law. The possibility of choosing the applicable law by common agreement should be without prejudice to the rights of, and equal opportunities for, the two spouses. Hence judges in the participating Member States should be aware of the importance of an informed choice on the part of the two spouses concerning the legal implications of the choice-of-law agreement concluded.

- (19) Rules on material and formal validity should be defined so that the informed choice of the spouses is facilitated and that their consent is respected with a view to ensuring legal certainty as well as better access to justice. As far as formal validity is concerned, certain safeguards should be introduced to ensure that spouses are aware of the implications of their choice. The agreement on the choice of applicable law should at least be expressed in writing, dated and signed by both parties. However, if the law of the participating Member State in which the two spouses have their habitual residence at the time the agreement is concluded lays down additional formal rules, those rules should be complied with. For example, such additional formal rules may exist in a participating Member State where the agreement is inserted in a marriage contract. If, at the time the agreement is concluded, the spouses are habitually resident in different participating Member States which lay down different formal rules, compliance with the formal rules of one of these States would suffice. If, at the time the agreement is concluded, only one of the spouses is habitually resident in a participating Member State which lays down additional formal rules, these rules should be complied with.

- (20) An agreement designating the applicable law should be able to be concluded and modified at the latest at the time the court is seized, and even during the course of the proceeding if the law of the *forum* so provides. In that event, it should be sufficient for such designation to be recorded in court in accordance with the law of the *forum*.

<sup>(1)</sup> OJ L 174, 27.6.2001, p. 25.

- (21) Where no applicable law is chosen, and with a view to guaranteeing legal certainty and predictability and preventing a situation from arising in which one of the spouses applies for divorce before the other one does in order to ensure that the proceeding is governed by a given law which he considers more favourable to his own interests, this Regulation should introduce harmonised conflict-of-laws rules on the basis of a scale of successive connecting factors based on the existence of a close connection between the spouses and the law concerned. Such connecting factors should be chosen so as to ensure that proceedings relating to divorce or legal separation are governed by a law with which the spouses have a close connection.
- (22) Where this Regulation refers to nationality as a connecting factor for the application of the law of a State, the question of how to deal with cases of multiple nationality should be left to national law, in full observance of the general principles of the European Union.
- (23) If the court is seized in order to convert a legal separation into divorce, and where the parties have not made any choice as to the law applicable, the law which applied to the legal separation should also apply to the divorce. Such continuity would promote predictability for the parties and increase legal certainty. If the law applied to the legal separation does not provide for the conversion of legal separation into divorce, the divorce should be governed by the conflict-of-laws rules which apply in the absence of a choice by the parties. This should not prevent the spouses from seeking divorce on the basis of other rules in this Regulation.
- (24) In certain situations, such as where the applicable law makes no provision for divorce or where it does not grant one of the spouses equal access to divorce or legal separation on grounds of their sex, the law of the court seized should nevertheless apply. This, however, should be without prejudice to the public policy clause.
- (25) Considerations of public interest should allow courts in the Member States the opportunity in exceptional circumstances to disregard the application of a provision of foreign law in a given case where it would be manifestly contrary to the public policy of the forum. However, the courts should not be able to apply the public policy exception in order to disregard a provision of the law of another State when to do so would be contrary to the Charter of Fundamental Rights of the European Union, and in particular Article 21 thereof, which prohibits all forms of discrimination.
- (26) Where this Regulation refers to the fact that the law of the participating Member State whose court is seized does not provide for divorce, this should be interpreted to mean that the law of this Member State does not have the institute of divorce. In such a case, the court should not be obliged to pronounce a divorce by virtue of this Regulation.
- (27) Where this Regulation refers to the fact that the law of the participating Member State whose court is seized does not deem the marriage in question valid for the purposes of divorce proceedings, this should be interpreted to mean, *inter alia*, that such a marriage does not exist in the law of that Member State. In such a case, the court should not be obliged to pronounce a divorce or a legal separation by virtue of this Regulation.
- (28) Since there are States and participating Member States in which two or more systems of law or sets of rules concerning matters governed by this Regulation coexist, there should be a provision governing the extent to which this Regulation applies in the different territorial units of those States and participating Member States or to different categories of persons of those States and participating Member States.
- (29) In the absence of rules designating the applicable law, parties choosing the law of the State of the nationality of one of them should at the same time indicate which territorial unit's law they have agreed upon in case the State whose law is chosen comprises several territorial units each of which has its own system of law or a set of rules in respect of divorce.
- (30) Since the objectives of this Regulation, namely the enhancement of legal certainty, predictability and flexibility in international matrimonial proceedings and hence the facilitation of the free movement of persons within the Union, cannot be sufficiently achieved by the Member States and can therefore, by reasons of the scale and effects of this Regulation be better achieved at Union level, the Union may adopt measures, by means of enhanced cooperation where appropriate, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (31) This Regulation respects fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, and in particular by Article 21 thereof, which states that any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. This Regulation should be applied by the courts of the participating Member States in observance of those rights and principles,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### **SCOPE, RELATION WITH REGULATION (EC) NO 2201/2003, DEFINITIONS AND UNIVERSAL APPLICATION**

#### *Article 1*

##### **Scope**

1. This Regulation shall apply, in situations involving a conflict of laws, to divorce and legal separation.

2. This Regulation shall not apply to the following matters, even if they arise merely as a preliminary question within the context of divorce or legal separation proceedings:

(a) the legal capacity of natural persons;

(b) the existence, validity or recognition of a marriage;

(c) the annulment of a marriage;

(d) the name of the spouses;

(e) the property consequences of the marriage;

(f) parental responsibility;

(g) maintenance obligations;

(h) trusts or successions.

#### *Article 2*

##### **Relation with Regulation (EC) No 2201/2003**

This Regulation shall not affect the application of Regulation (EC) No 2201/2003.

#### *Article 3*

##### **Definitions**

For the purposes of this Regulation:

1. 'participating Member State' means a Member State which participates in enhanced cooperation on the law applicable to divorce and legal separation by virtue of Decision 2010/405/EU, or by virtue of a decision adopted in accordance with the second or third subparagraph of Article 331(1) of the Treaty on the Functioning of the European Union;

2. the term 'court' shall cover all the authorities in the participating Member States with jurisdiction in the matters falling within the scope of this Regulation.

#### *Article 4*

##### **Universal application**

The law designated by this Regulation shall apply whether or not it is the law of a participating Member State.

## CHAPTER II

### **UNIFORM RULES ON THE LAW APPLICABLE TO DIVORCE AND LEGAL SEPARATION**

#### *Article 5*

##### **Choice of applicable law by the parties**

1. The spouses may agree to designate the law applicable to divorce and legal separation provided that it is one of the following laws:

(a) the law of the State where the spouses are habitually resident at the time the agreement is concluded; or

(b) the law of the State where the spouses were last habitually resident, in so far as one of them still resides there at the time the agreement is concluded; or

(c) the law of the State of nationality of either spouse at the time the agreement is concluded; or

(d) the law of the *forum*.

2. Without prejudice to paragraph 3, an agreement designating the applicable law may be concluded and modified at any time, but at the latest at the time the court is seized.

3. If the law of the *forum* so provides, the spouses may also designate the law applicable before the court during the course of the proceeding. In that event, such designation shall be recorded in court in accordance with the law of the *forum*.

#### *Article 6*

##### **Consent and material validity**

1. The existence and validity of an agreement on choice of law or of any term thereof, shall be determined by the law which would govern it under this Regulation if the agreement or term were valid.

2. Nevertheless, a spouse, in order to establish that he did not consent, may rely upon the law of the country in which he has his habitual residence at the time the court is seized if it appears from the circumstances that it would not be reasonable to determine the effect of his conduct in accordance with the law specified in paragraph 1.

### Article 7

#### **Formal validity**

1. The agreement referred to in Article 5(1) and (2), shall be expressed in writing, dated and signed by both spouses. Any communication by electronic means which provides a durable record of the agreement shall be deemed equivalent to writing.

2. However, if the law of the participating Member State in which the two spouses have their habitual residence at the time the agreement is concluded lays down additional formal requirements for this type of agreement, those requirements shall apply.

3. If the spouses are habitually resident in different participating Member States at the time the agreement is concluded and the laws of those States provide for different formal requirements, the agreement shall be formally valid if it satisfies the requirements of either of those laws.

4. If only one of the spouses is habitually resident in a participating Member State at the time the agreement is concluded and that State lays down additional formal requirements for this type of agreement, those requirements shall apply.

### Article 8

#### **Applicable law in the absence of a choice by the parties**

In the absence of a choice pursuant to Article 5, divorce and legal separation shall be subject to the law of the State:

(a) where the spouses are habitually resident at the time the court is seized; or, failing that

(b) where the spouses were last habitually resident, provided that the period of residence did not end more than 1 year before the court was seized, in so far as one of the spouses still resides in that State at the time the court is seized; or, failing that

(c) of which both spouses are nationals at the time the court is seized; or, failing that

(d) where the court is seized.

### Article 9

#### **Conversion of legal separation into divorce**

1. Where legal separation is converted into divorce, the law applicable to divorce shall be the law applied to the legal separation, unless the parties have agreed otherwise in accordance with Article 5.

2. However, if the law applied to the legal separation does not provide for the conversion of legal separation into divorce, Article 8 shall apply, unless the parties have agreed otherwise in accordance with Article 5.

### Article 10

#### **Application of the law of the forum**

Where the law applicable pursuant to Article 5 or Article 8 makes no provision for divorce or does not grant one of the spouses equal access to divorce or legal separation on grounds of their sex, the law of the forum shall apply.

### Article 11

#### **Exclusion of renvoi**

Where this Regulation provides for the application of the law of a State, it refers to the rules of law in force in that State other than its rules of private international law.

### Article 12

#### **Public policy**

Application of a provision of the law designated by virtue of this Regulation may be refused only if such application is manifestly incompatible with the public policy of the forum.

### Article 13

#### **Differences in national law**

Nothing in this Regulation shall oblige the courts of a participating Member State whose law does not provide for divorce or does not deem the marriage in question valid for the purposes of divorce proceedings to pronounce a divorce by virtue of the application of this Regulation.

### Article 14

#### **States with two or more legal systems — territorial conflicts of laws**

Where a State comprises several territorial units each of which has its own system of law or a set of rules concerning matters governed by this Regulation:

- (a) any reference to the law of such State shall be construed, for the purposes of determining the law applicable under this Regulation, as referring to the law in force in the relevant territorial unit;
  
- (b) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit;
  
- (c) any reference to nationality shall refer to the territorial unit designated by the law of that State, or, in the absence of relevant rules, to the territorial unit chosen by the parties or, in absence of choice, to the territorial unit with which the spouse or spouses has or have the closest connection.

#### *Article 15*

#### **States with two or more legal systems — inter-personal conflicts of laws**

In relation to a State which has two or more systems of law or sets of rules applicable to different categories of persons concerning matters governed by this Regulation, any reference to the law of such a State shall be construed as referring to the legal system determined by the rules in force in that State. In the absence of such rules, the system of law or the set of rules with which the spouse or spouses has or have the closest connection applies.

#### *Article 16*

#### **Non-application of this Regulation to internal conflicts of laws**

A participating Member State in which different systems of law or sets of rules apply to matters governed by this Regulation shall not be required to apply this Regulation to conflicts of laws arising solely between such different systems of law or sets of rules.

### CHAPTER III

#### **OTHER PROVISIONS**

#### *Article 17*

#### **Information to be provided by participating Member States**

1. By 21 September 2011 the participating Member States shall communicate to the Commission their national provisions, if any, concerning:

- (a) the formal requirements applicable to agreements on the choice of applicable law pursuant to Article 7(2) to (4); and
  
- (b) the possibility of designating the applicable law in accordance with Article 5(3).

The participating Member States shall inform the Commission of any subsequent changes to these provisions.

2. The Commission shall make all information communicated in accordance with paragraph 1 publicly available through appropriate means, in particular through the website of the European Judicial Network in civil and commercial matters.

#### *Article 18*

#### **Transitional provisions**

1. This Regulation shall apply only to legal proceedings instituted and to agreements of the kind referred to in Article 5 concluded as from 21 June 2012.

However, effect shall also be given to an agreement on the choice of the applicable law concluded before 21 June 2012, provided that it complies with Articles 6 and 7.

2. This Regulation shall be without prejudice to agreements on the choice of applicable law concluded in accordance with the law of a participating Member State whose court is seized before 21 June 2012.

#### *Article 19*

#### **Relationship with existing international conventions**

1. Without prejudice to the obligations of the participating Member States pursuant to Article 351 of the Treaty on the Functioning of the European Union, this Regulation shall not affect the application of international conventions to which one or more participating Member States are party at the time when this Regulation is adopted or when the decision pursuant to the second or third subparagraph of Article 331(1) of the Treaty on the Functioning of the European Union is adopted and which lay down conflict-of-laws rules relating to divorce or separation.

2. However, this Regulation shall, as between participating Member States, take precedence over conventions concluded exclusively between two or more of them in so far as such conventions concern matters governed by this Regulation.

#### *Article 20*

#### **Review clause**

1. By 31 December 2015, and every 5 years thereafter, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Regulation. The report shall be accompanied, where appropriate, by proposals to adapt this Regulation.

2. To that end, the participating Member States shall communicate to the Commission the relevant information on the application of this Regulation by their courts.

It shall apply from 21 June 2012, with the exception of Article 17, which shall apply from 21 June 2011.

#### CHAPTER IV

#### FINAL PROVISIONS

##### *Article 21*

##### **Entry into force and date of application**

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

For those participating Member States which participate in enhanced cooperation by virtue of a decision adopted in accordance with the second or third subparagraph of Article 331(1) of the Treaty on the Functioning of the European Union, this Regulation shall apply as from the date indicated in the decision concerned.

This Regulation shall be binding in its entirety and directly applicable in the participating Member States in accordance with the Treaties.

Done at Brussels, 20 December 2010.

*For the Council*

*The President*

J. SCHAUVLIEGE

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**COMMISSION REGULATION (EU) No 1260/2010**  
**of 22 December 2010**

**publishing, for 2011, the agricultural product nomenclature for export refunds introduced by  
 Regulation (EEC) No 3846/87**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (<sup>(1)</sup>),

Having regard to Commission Regulation (EEC) No 3846/87 of 17 December 1987 establishing an agricultural product nomenclature for export refunds (<sup>(2)</sup>), and in particular the fourth paragraph of Article 3 thereof,

Whereas:

- (1) The full version of the refund nomenclature valid at 1 January 2011, as it ensues from the regulatory provisions on export arrangements for agricultural products, should be published.
- (2) Commission Regulation (EU) No 1298/2009 of 18 December 2009 publishing, for 2010, the agricultural

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

Done at Brussels, 22 December 2010.

*For the Commission  
 The President  
 José Manuel BARROSO*

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.  
<sup>(2)</sup> OJ L 366, 24.12.1987, p. 1.

<sup>(3)</sup> OJ L 353, 31.12.2009, p. 9.

## ANNEX I

## 'ANNEX I

**AGRICULTURAL PRODUCT NOMENCLATURE FOR EXPORT REFUNDS**

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**1. Cereals and wheat or rye flour, groats or meal**

CN code	Description of goods	Product code
1001	Wheat and meslin:	
1001 10 00	– Durum wheat: – – Seed – – Other	1001 10 00 9200 1001 10 00 9400
ex 1001 90	– Other: – – Other spelt, common wheat and meslin:	
1001 90 91	– – – Common wheat and meslin seed	1001 90 91 9000
1001 90 99	– – – Other	1001 90 99 9000
1002 00 00	Rye	1002 00 00 9000
1003 00	Barley: – Seed	
1003 00 10	– Other	1003 00 90 9000
1004 00 00	Oats: – Seed – Other	1004 00 00 9200 1004 00 00 9400
1005	Maize (corn):	
ex 1005 10	– Seed:	

CN code	Description of goods	Product code
1005 10 90	-- Other	1005 10 90 9000
1005 90 00	- Other	1005 90 00 9000
1007 00	Grain sorghum:	
1007 00 90	- Other	1007 00 90 9000
ex 1008	Buckwheat, millet and canary seed; other cereals:	
1008 20 00	- Millet	1008 20 00 9000
1101 00	Wheat or meslin flour:	
	– Wheat flour:	
1101 00 11	-- Of durum wheat	1101 00 11 9000
1101 00 15	-- Of common wheat and spelt:	
	--- Of an ash content of 0 to 600 mg/100 g	1101 00 15 9100
	--- Of an ash content of 601 to 900 mg/100 g	1101 00 15 9130
	--- Of an ash content of 901 to 1 100 mg/100 g	1101 00 15 9150
	--- Of an ash content of 1 101 to 1 650 mg/100 g	1101 00 15 9170
	--- Of an ash content of 1 651 to 1 900 mg/100 g	1101 00 15 9180
	--- Of an ash content of more than 1 900 mg/100 g	1101 00 15 9190
1101 00 90	- Meslin flour	1101 00 90 9000
ex 1102	Cereal flours other than of wheat or meslin:	
1102 10 00	- Rye flour:	
	-- Of an ash content of 0 to 1 400 mg/100 g	1102 10 00 9500
	-- Of an ash content of more than 1 400 to 2 000 mg/100 g	1102 10 00 9700
	-- Of an ash content of more than 2 000 mg/100 g	1102 10 00 9900
ex 1103	Cereal groats, meal and pellets:	
	- Groats and meal:	
1103 11	-- Of wheat:	
1103 11 10	-- Durum wheat:	
	--- Of an ash content of 0 to 1 300 mg/100 g:	
	----- Meal of which less than 10 %, by weight, is capable of passing through a sieve of 0,160 mm mesh	1103 11 10 9200
	----- Other	1103 11 10 9400
	----- Of an ash content of more than 1 300 mg/100 g	1103 11 10 9900
1103 11 90	-- Common wheat and spelt:	
	---- Of an ash content of 0 to 600 mg/100 g	1103 11 90 9200
	---- Of an ash content of exceeding 600 mg/100 g	1103 11 90 9800

## 2. Rice and broken rice

CN code	Description of goods	Product code
1006	Rice:	
1006 20	– Husked (brown) rice:	
	– – Parboiled:	
1006 20 11	– – – Round grain	1006 20 11 9000
1006 20 13	– – – Medium grain	1006 20 13 9000
	– – – Long grain:	
1006 20 15	– – – – Of a length/width ratio greater than 2 but less than 3	1006 20 15 9000
1006 20 17	– – – – Of a length/width ratio equal to or greater than 3	1006 20 17 9000
	– – Other:	
1006 20 92	– – – Round grain	1006 20 92 9000
1006 20 94	– – – Medium grain	1006 20 94 9000
	– – – Long grain:	
1006 20 96	– – – – Of a length/width ratio greater than 2 but less than 3	1006 20 96 9000
1006 20 98	– – – – Of a length/width ratio equal to or greater than 3	1006 20 98 9000
1006 30	– Semi-milled or wholly milled rice, whether or not polished or glazed:	
	– – Semi-milled rice:	
	– – – Parboiled:	
1006 30 21	– – – – Round grain	1006 30 21 9000
1006 30 23	– – – – Medium grain	1006 30 23 9000
	– – – – Long grain:	
1006 30 25	– – – – – Of a length/width ratio greater than 2 but less than 3	1006 30 25 9000
1006 30 27	– – – – – Of a length/width ratio equal to or greater than 3	1006 30 27 9000
	– – – Other:	
1006 30 42	– – – – Round grain	1006 30 42 9000
1006 30 44	– – – – Medium grain	1006 30 44 9000
	– – – – Long grain:	
1006 30 46	– – – – – Of a length/width ratio greater than 2 but less than 3	1006 30 46 9000
1006 30 48	– – – – – Of a length/width ratio equal to or greater than 3	1006 30 48 9000
	– – Wholly milled rice:	
	– – – Parboiled:	
1006 30 61	– – – – Round grain:	
	– – – – – In immediate packings of 5 kg net or less	1006 30 61 9100
	– – – – – Other	1006 30 61 9900

CN code	Description of goods	Product code
1006 30 63	- - - - Medium grain: - - - - In immediate packings of 5 kg net or less - - - - Other - - - - Long grain:	1006 30 63 9100 1006 30 63 9900
1006 30 65	- - - - Of a length/width ratio greater than 2 but less than 3: - - - - In immediate packings of 5 kg net or less - - - - Other	1006 30 65 9100 1006 30 65 9900
1006 30 67	- - - - Of a length/width ratio equal to or greater than 3: - - - - In immediate packings of 5 kg net or less - - - - Other - - - Other:	1006 30 67 9100 1006 30 67 9900
1006 30 92	- - - - Round grain: - - - - In immediate packings of 5 kg net or less - - - - Other	1006 30 92 9100 1006 30 92 9900
1006 30 94	- - - - Medium grain: - - - - In immediate packings of 5 kg net or less - - - - Other - - - - Long grain:	1006 30 94 9100 1006 30 94 9900
1006 30 96	- - - - Of a length/width ratio greater than 2 but less than 3: - - - - In immediate packings of 5 kg net or less - - - - Other	1006 30 96 9100 1006 30 96 9900
1006 30 98	- - - - Of a length/width ratio equal to or greater than 3: - - - - In immediate packings of 5 kg net or less - - - - Other	1006 30 98 9100 1006 30 98 9900
1006 40 00	- Broken rice	1006 40 00 9000

### 3. Products processed from cereals

CN code	Description of goods	Product code
ex 1102	Cereal flours other than of wheat or meslin:	
ex 1102 20	– Maize (corn) flour:	
ex 1102 20 10	– – Of a fat content not exceeding 1,5 % by weight:  – – – Of a fat content not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight <sup>(2)</sup>  – – – Of a fat content exceeding 1,3 % but not exceeding 1,5 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight <sup>(2)</sup>	1102 20 10 9200  1102 20 10 9400
ex 1102 20 90	– – Other:  – – – Of a fat content exceeding 1,5 % but not exceeding 1,7 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight <sup>(2)</sup>	1102 20 90 9200
ex 1102 90	– Other:	
1102 90 10	– – Barley flour:  – – – Of an ash content, referred to dry matter, not exceeding 0,9 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	1102 90 10 9100
	– – – Other	1102 90 10 9900
ex 1102 90 30	– – Oat flour:  – – – Of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a crude fibre content, referred to dry matter, not exceeding 1,8 % by weight, of a moisture content not exceeding 11 % and of which the peroxidase is virtually inactivated	1102 90 30 9100
ex 1103	Cereal groats, meal and pellets:  – Groats and meal:	
ex 1103 13	– – Of maize (corn):  – – – Of a fat content not exceeding 1,5 % by weight:  – – – – Of a fat content, not exceeding 0,9 % by weight and a crude fibre content, referred to dry matter, not exceeding 0,6 % by weight of which a percentage not exceeding 30 % passes through a sieve with an aperture of 315 micrometers and of which a percentage not exceeding 5 % passes through a sieve with an aperture of 150 micrometers <sup>(3)</sup>	1103 13 10 9100
ex 1103 13 10	– – – – Of a fat content, exceeding 0,9 % by weight but not exceeding 1,3 % by weight and a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight of which a percentage not exceeding 30 % passes through a sieve with an aperture of 315 micrometers and of which a percentage not exceeding 5 % passes through a sieve with an aperture of 150 micrometers <sup>(3)</sup>	1103 13 10 9300
	– – – – Of a fat content, exceeding 1,3 % by weight but not exceeding 1,5 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1,0 % by weight of which a percentage not exceeding 30 % passes through a sieve with an aperture of 315 micrometers and of which a percentage not exceeding 5 % passes through a sieve with an aperture of 150 micrometers <sup>(3)</sup>	1103 13 10 9500
ex 1103 13 90	– – – Other:  – – – – Of a fat content, exceeding 1,5 % by weight but not exceeding 1,7 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight of which a percentage not exceeding 30 % passes through a sieve with an aperture of 315 micrometers and of which a percentage not exceeding 5 % passes through a sieve with an aperture of 150 micrometers <sup>(3)</sup>	1103 13 90 9100
ex 1103 19	– – Of other cereals:	
1103 19 10	– – – Of rye	1103 19 10 9000

CN code	Description of goods	Product code
ex 1103 19 30	- - - Of barley: - - - - Of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	1103 19 30 9100
ex 1103 19 40	- - - Of oats: - - - - Of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,1 % of a moisture content not exceeding 11 % and of which the peroxidase is virtually inactivated	1103 19 40 9100
ex 1103 20	- Pellets:	
1103 20 20	- - Of barley	1103 20 20 9000
1103 20 60	- - Of wheat	1103 20 60 9000
ex 1104	Cereal grains otherwise worked (for example, hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading No 1006; germ of cereals, whole, rolled, flaked or ground: - Rolled or flaked grains:	
ex 1104 12	- - Of oats:	
ex 1104 12 90	- - - Flaked: - - - - Of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,1 % of a moisture content not exceeding 12 % and of which the peroxidase is virtually inactivated - - - - Of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content exceeding 0,1 %, but not exceeding 1,5 % of a moisture content not exceeding 12 % and of which the peroxidase is virtually inactivated	1104 12 90 9100 1104 12 90 9300
ex 1104 19	- - Of other cereals:	
1104 19 10	- - - Of wheat	1104 19 10 9000
ex 1104 19 50	- - - Of maize: - - - - Flaked: - - - - - Of a fat content, referred to dry matter, not exceeding 0,9 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,7 % by weight <sup>(3)</sup> - - - - - Of a fat content, referred to dry matter, exceeding 0,9 % but not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight <sup>(3)</sup>	1104 19 50 9110 1104 19 50 9130
ex 1104 19 69	- - - - Of barley:	
	- - - - Flaked	
	- - - - - Of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	
	- Other worked grains (for example, hulled, pearled, sliced or kibbled):	
ex 1104 22	- - Of oats:	
ex 1104 22 20	- - - Hulled (shelled or husked): - - - - Of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of tegument content not exceeding 0,5 %, of a moisture content not exceeding 11 % and of which the peroxidase is virtually inactivated corresponding to the definition given in the Annex to Regulation (EC) No 508/2008 <sup>(1)</sup>	1104 22 20 9100

CN code	Description of goods	Product code
ex 1104 22 30	<p>– – – Hulled and sliced or kibbled (“Grütze” or “grutten”):</p> <p>– – – – Of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,1 %, of a moisture content not exceeding 11 % and of which the peroxidase is virtually inactivated corresponding to the definition given in the Annex to Regulation (EC) No 508/2008 (¹)</p>	1104 22 30 9100
ex 1104 23	– – Of maize (corn):	
ex 1104 23 10	<p>– – – Hulled (shelled or husked), whether or not sliced or kibbled:</p> <p>– – – – Of a fat content, referred to dry matter, not exceeding 0,9 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,6 % by weight (“Grütze” or “grutten”) corresponding to the definition given in the Annex to Regulation (EC) No 508/2008 (¹) (²)</p> <p>– – – – Of a fat content, referred to dry matter, exceeding 0,9 % but not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight (“Grütze” or “grutten”) corresponding to the definition given in the Annex to Regulation (EC) No 508/2008 (¹) (³)</p>	1104 23 10 9100
1104 29	<p>– – Of other cereals:</p> <p>– – – Of barley:</p>	1104 23 10 9300
ex 1104 29 01	<p>– – – Hulled (shelled or husked):</p> <p>– – – – Of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight corresponding to the definition given in the Annex to Regulation (EC) No 508/2008 (¹)</p>	1104 29 01 9100
ex 1104 29 03	<p>– – – Hulled and sliced or kibbled (“Grütze” or “grutten”):</p> <p>– – – – Of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight corresponding to the definition given in the Annex to Regulation (EC) No 508/2008 (¹)</p>	1104 29 03 9100
ex 1104 29 05	<p>– – – Pearled:</p> <p>– – – – Of an ash content, referred to dry matter, not exceeding 1 % by weight (without talc):</p> <p>– – – – – First category corresponding to the definition given in the Annex to Regulation (EC) No 508/2008 (¹)</p> <p>– – – – – Second category corresponding to the definition given in the Annex to Regulation (EC) No 508/2008 (¹)</p> <p>– – – other:</p> <p>– – – Hulled (shelled or husked), whether or not sliced or kibbled:</p>	1104 29 05 9100
ex 1104 29 11	<p>– – – – Of wheat, not sliced or kibbled corresponding to the definition given in the Annex to Regulation (EC) No 508/2008 (¹)</p> <p>– – – Not otherwise worked than kibbled:</p>	1104 29 05 9300
1104 29 51	– – – – Of wheat	1104 29 51 9000
1104 29 55	– – – – Of rye	1104 29 55 9000
1104 30	– Germ of cereals, whole, rolled, flaked or ground:	
1104 30 10	– – Of wheat	1104 30 10 9000
1104 30 90	– – Of other cereals	1104 30 90 9000
1107	Malt, whether or not roasted:	

CN code	Description of goods	Product code
1107 10	– Not roasted: – – Of wheat: – – – In the form of flour	
1107 10 11	– – – Other:	1107 10 11 9000
1107 10 19	– – – Other:	1107 10 19 9000
1107 10 91	– – – In the form of flour	1107 10 91 9000
1107 10 99	– – – Other	1107 10 99 9000
1107 20 00	– Roasted	1107 20 00 9000
ex 1108	Starches; inulin: – Starches (⁴):	
ex 1108 11 00	– – Wheat starch: – – – Of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 % – – – Of a dry matter content of not less than 84 % but less than 87 % and a purity in the dry matter of not less than 97 % (⁵)	1108 11 00 9200 1108 11 00 9300
ex 1108 12 00	– – Maize (corn) starch: – – – Of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 % – – – Of a dry matter content of not less than 84 % but less than 87 % and a purity in the dry matter of not less than 97 % (⁵)	1108 12 00 9200 1108 12 00 9300
ex 1108 13 00	– – Potato starch: – – – Of a dry matter content of not less than 80 % and a purity in the dry matter of not less than 97 % – – – Of a dry matter content of not less than 77 % but less than 80 % and a purity in the dry matter of not less than 97 % (⁵)	1108 13 00 9200 1108 13 00 9300
ex 1108 19	– – Other starches:	
ex 1108 19 10	– – – Rice starch: – – – – Of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 % – – – – Of a dry matter content of not less than 84 % but less than 87 % and a purity in the dry matter of not less than 97 % (⁵)	1108 19 10 9200 1108 19 10 9300
ex 1109 00 00	Wheat gluten, whether or not dried: – Dried wheat gluten, of a protein content, referred to dry matter, of 82 % or more by weight ( $N \times 6,25$ )	1109 00 00 9100
ex 1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:	
ex 1702 30	– Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20 % by weight of fructose: – – Other:	
1702 30 50	– – – In the form of white crystalline powder, whether or not agglomerated	1702 30 50 9000
1702 30 90	– – – Other (⁶)	1702 30 90 9000

CN code	Description of goods	Product code
ex 1702 40	– Glucose and glucose syrup, containing in the dry state at least 20 % but less than 50 % by weight of fructose, excluding invert sugar:	
1702 40 90	– – Other (⁶)	1702 40 90 9000
ex 1702 90	– Other, including invert sugar and other sugar and sugar syrup blends containing in the dry state 50 % by weight of fructose:	
1702 90 50	– – Maltodextrine and maltodextrine syrup: – – – Maltodextrine, in the form of a white solid, whether or not agglomerated – – – Other (⁶) – – Caramel: – – – Other: – – – In the form of powder, whether or not agglomerated	1702 90 50 9100 1702 90 50 9900 1702 90 75 9000
1702 90 75	– – – Other	1702 90 79 9000
2106	Food preparations not elsewhere specified or included:	
ex 2106 90	– Other: – – Flavoured or coloured sugar syrups: – – – Other: – – – Glucose syrup and maltodextrine syrup (⁶)	2106 90 55 9000

(¹) OJ L 149, 7.6.2008 p. 55.

(²) The analytical method to be used for the determination of the fatty matter content is that printed in Annex I (method A) to Commission Directive 84/4/EEC (OJ L 15, 18.1.1984, p. 28).

(³) The procedure to be followed for the determination of the fatty matter content is as follows:

— the sample has to be crushed so that 90 % or more can pass through a sieve with an aperture of 500 micrometres and 100 % can pass through a sieve with an aperture of 1 000 micrometres,

— the analytical method to be used afterwards is that which is printed in Annex I (method A) to Directive 84/4/EEC.

(⁴) The dry matter content of starch is determined by the method laid down in Annex IV to Commission Regulation (EC) No 687/2008 (OJ L 192, 19.7.2008, p. 20). The purity of starch is determined using the Ewers modified polarimetric method, as published in Annex III, part L of Commission Regulation (EC) No 152/2009 (OJ L 54, 26.2.2009, p. 1).

(⁵) The export refund payable for starch shall be adjusted by using the following formula:

1. Potato starch: ((actual % dry matter)/80) × export refund.
2. All other types of starch: ((actual % dry matter)/87) × export refund.

When completing customs formalities, the applicant shall state on the declaration provided for this purpose the dry matter content of the product.

(⁶) The export refund is payable for products having a dry matter content of at least 78 %. The export refund provided for products having a dry matter content of less than 78 % shall be adjusted by using the following formula:

$$((\text{actual dry matter content})/78) \times \text{export refund}$$

The dry matter content is determined by method 2 laid down in Annex II to Commission Directive 79/796/EEC (OJ L 239, 22.9.1979, p. 24), or by any other suitable analysis method offering at least the same guarantees.

## 4. Cereal-based compound feedingstuffs

CN code	Description of goods	Product code
2309	Preparations of a kind used in animal feeding (1):	
ex 2309 10	<ul style="list-style-type: none"> <li>- Dog or cat food, put up for retail sale:</li> <li>- - Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup falling within subheadings 1702 30 50, 1702 30 90, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products:</li> <li>- - - Containing starch, glucose, syrup, maltodextrine or maltodextrine syrup:</li> <li>- - - - Containing no starch, or containing 10 % or less by weight of starch (2) (3):</li> <li>- - - - - Containing no milk products or containing less than 10 % by weight of such products</li> <li>- - - - - Containing not less than 10 % but less than 50 % by weight of milk products</li> <li>- - - - - Containing more than 10 % but not more than 30 % by weight of starch (2):</li> <li>- - - - - Containing no milk products or containing less than 10 % by weight of such products</li> <li>- - - - - Containing not less than 10 % but less than 50 % by weight of milk products</li> <li>- - - - - Containing more than 30 % by weight of starch (2):</li> <li>- - - - - Containing no milk products or containing less than 10 % by weight of such products</li> <li>- - - - - Containing not less than 10 % but less than 50 % by weight of milk products</li> </ul>	
2309 10 11	- Other:	2309 10 11 9000
2309 10 13		2309 10 13 9000
2309 10 31		2309 10 31 9000
2309 10 33		2309 10 33 9000
2309 10 51		2309 10 51 9000
2309 10 53		2309 10 53 9000
ex 2309 90	<ul style="list-style-type: none"> <li>- Other:</li> <li>- - Other, including premixes:</li> <li>- - - Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup falling within subheadings 1702 30 50, 1702 30 90, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products:</li> <li>- - - - Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup:</li> <li>- - - - - Containing no starch or containing 10 % or less by weight of starch (2) (3):</li> <li>- - - - - - Containing no milk products or containing less than 10 % by weight of such products</li> <li>- - - - - - Containing not less than 10 % but less than 50 % by weight of milk products</li> <li>- - - - - - Containing more than 10 % but not more than 30 % by weight of starch (2):</li> <li>- - - - - - Containing no milk products or containing less than 10 % by weight of such products</li> <li>- - - - - - Containing not less than 10 % but less than 50 % by weight of milk products</li> </ul>	
2309 90 31		2309 90 31 9000
2309 90 33		2309 90 33 9000
2309 90 41		2309 90 41 9000
2309 90 43		2309 90 43 9000
2309 90 51		2309 90 51 9000
2309 90 53		2309 90 53 9000

(1) Covered by Commission Regulation (EC) No 1517/95 (OJ L 147, 30.6.1995, p. 51).

(2) For the purposes of the refund only the starch coming from cereal products is taken into account. Cereal products means the products falling within subheadings 0709 90 60 and 0712 90 19, Chapter 10, and heading Nos 1101, 1102, 1103 and 1104 (unprocessed and not reconstituted) excluding subheading 1104 30 and the cereals content of the products falling within subheadings 1904 10 10 and 1904 10 90 of the Combined Nomenclature. The cereals content in products under subheadings 1904 10 10 and 1904 10 90 of the Combined Nomenclature is considered to be equal to the weight of this final product. No refund is paid for cereals where the origin of the starch cannot be clearly established by analysis.

(3) A refund will only be paid for products containing 5 % or more by weight of starch.

## 5. Beef and veal

CN code	Description of goods	Product code
ex 0102	Live bovine animals:	
ex 0102 10	– Pure-bred breeding animals:	
ex 0102 10 10	– – Heifers (female bovines that have never calved):	
	– – – With a live weight equal to or greater than 250 kg:	
	– – – – Up to the age of 30 months	0102 10 10 9140
	– – – – Other	0102 10 10 9150
ex 0102 10 30	– – Cows:	
	– – – With a live weight equal to or greater than 250 kg:	
	– – – – Up to the age of 30 months	0102 10 30 9140
	– – – – Other	0102 10 30 9150
ex 0102 10 90	– – Other:	
	– – – With a live weight equal to or greater than 300 kg	0102 10 90 9120
ex 0102 90	– Other:	
	– – Domestic species:	
	– – – Of a weight exceeding 160 kg but not exceeding 300 kg:	
ex 0102 90 41	– – – For slaughter:	
	– – – – Of a weight exceeding 220 kg	0102 90 41 9100
	– – – – Of a weight exceeding 300 kg:	
	– – – – Heifers (female bovines that have never calved):	
0102 90 51	– – – – – For slaughter	0102 90 51 9000
0102 90 59	– – – – Other	0102 90 59 9000
	– – – – Cows:	
0102 90 61	– – – – – For slaughter	0102 90 61 9000
0102 90 69	– – – – Other	0102 90 69 9000
	– – – – Other:	
0102 90 71	– – – – For slaughter	0102 90 71 9000
0102 90 79	– – – – Other	0102 90 79 9000
0201	Meat of bovine animals, fresh and chilled:	
0201 10 00	– Carcasses and half-carcases:	
	– – The front part of a carcase or of a half-carcase comprising all the bones and the scrag, neck and shoulder but with more than 10 ribs:	
	– – – From male adult bovine animals (¹)	0201 10 00 9110
	– – – Other	0201 10 00 9120

CN code	Description of goods	Product code
	-- Other: --- From male adult bovine animals (¹)	0201 10 00 9130
	--- Other	0201 10 00 9140
0201 20	- Other cuts with bone in:	
0201 20 20	-- "Compensated" quarters: --- From male adult bovine animals (¹)	0201 20 20 9110
	--- Other	0201 20 20 9120
0201 20 30	-- Unseparated or separated forequarters: --- From male adult bovine animals (¹)	0201 20 30 9110
	--- Other	0201 20 30 9120
0201 20 50	-- Unseparated or separated hindquarters: --- With a maximum of eight ribs or eight pairs of ribs: ---- From male adult bovine animals (¹)	0201 20 50 9110
	---- Other	0201 20 50 9120
	--- With more than eight ribs or eight pairs of ribs: ---- From male adult bovine animals (¹)	0201 20 50 9130
	---- Other	0201 20 50 9140
ex 0201 20 90	-- Other: --- The weight of bone not exceeding one third of the weight of the cut	0201 20 90 9700
0201 30 00	- Boneless: -- Boneless cuts exported to the United States of America under the conditions laid down in Commission Regulation (EC) No 1643/2006 (²) or to Canada under the conditions laid down in Regulation (EC) No 1041/2008 (³)	0201 30 00 9050
	-- Boneless cuts, including minced meat, with an average lean bovine meat content (excluding fat) of 78 % or more (⁴):	0201 30 00 9060
	-- Other, each piece individually wrapped with an average lean bovine meat content (excluding fat) of 55 % or more (⁵): --- from the hindquarters of adult male bovine animals with a maximum of eight ribs or eight pairs of ribs, straight cut or "Pistola" cut (⁶)	0201 30 00 9100
	--- from unseparated or separated forequarters of adult male bovine animals, straight cut or "Pistola" cut (⁷)	0201 30 00 9120
	-- Other	0201 30 00 9140
ex 0202	Meat of bovine animals, frozen:	
0202 10 00	- Carcasses and half-carcases: -- The front part of a carcase or of a half-carcase comprising all the bones and the scrag, neck and shoulder but with more than 10 ribs	0202 10 00 9100
	-- Other	0202 10 00 9900

CN code	Description of goods	Product code
ex 0202 20	– Other cuts, with bone in: – – “Compensated” quarters – – Unseparated or separated forequarters – – Unseparated or separated hindquarters: – – – With a maximum of eight ribs or eight pairs of ribs – – – With more than eight ribs or eight pairs of ribs	0202 20 10 9000 0202 20 30 9000 0202 20 50 9100 0202 20 50 9900
ex 0202 20 90	– – Other: – – – The weight of bone not exceeding one third of the weight of the cut	0202 20 90 9100
0202 30	– Boneless:	
0202 30 90	– – Other: – – – Boneless cuts exported to the United States of America under the conditions laid down in Regulation (EC) No 1643/2006 ( <sup>3</sup> ) or to Canada under the conditions laid down in Regulation (EC) No 1041/2008 ( <sup>4</sup> ) – – – Other, including minced meat, with an average lean bovine meat content (excluding fat) of 78 % or more ( <sup>6</sup> ) – – – Other	0202 30 90 9100 0202 30 90 9200 0202 30 90 9900
0206	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen:	
0206 10	– Of bovine animals, fresh and chilled: – – Other:	
0206 10 95	– – – Thick skirt and thin skirt – Of bovine animals, frozen:	0206 10 95 9000
0206 29	– – Other: – – – Other:	
0206 29 91	– – – – Thick skirt and thin skirt	0206 29 91 9000
ex 0210	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:	
ex 0210 20	– Meat of bovine animals:	
ex 0210 20 90	– – Boneless: – – – Salted and dried	0210 20 90 9100
ex 1602	Other prepared or preserved meat, meat offal or blood:	
ex 1602 50	– Of bovine animals: – – Other:	
ex 1602 50 31	– – – Corned beef, in airtight containers; not containing meat other than that of the bovine species: – – – – With a collagen/protein ratio of no more than 0,35 ( <sup>7</sup> ) and containing by weight the following percentages of bovine meats (excluding offal and fat): – – – – – 90 % or more: – – – – – Products complying with the conditions laid down in Regulation (EC) No 1731/2006 ( <sup>5</sup> )	1602 50 31 9125

CN code	Description of goods	Product code
ex 1602 50 95	<ul style="list-style-type: none"> <li>- - - - - 80 % or more, but less than 90 %:</li> <li>- - - - - Products complying with the conditions laid down in Regulation (EC) No 1731/2006 (5)</li> <li>- - - Other, in airtight containers:           <ul style="list-style-type: none"> <li>- - - Not containing meat other than that of animals of the bovine species:</li> <li>- - - - With a collagen/protein ratio of no more than 0,35 (7) and containing by weight the following percentages of bovine meats (excluding offal and fat):               <ul style="list-style-type: none"> <li>- - - - - 90 % or more:</li> <li>- - - - - Products complying with the conditions laid down in Regulation (EC) No 1731/2006 (5)</li> <li>- - - - - 80 % or more, but less than 90 %:</li> <li>- - - - - Products complying with the conditions laid down in Regulation (EC) No 1731/2006 (5)</li> </ul> </li> </ul> </li> </ul>	1602 50 31 9325 1602 50 95 9125 1602 50 95 9325

(<sup>1</sup>) Entry within this subheading is subject to the submission of the certificate appearing in the Annex to Commission Regulation (EC) No 433/2007 (OJ L 104, 21.4.2007, p. 3).

(<sup>2</sup>) The granting of the refund is subject to compliance with the conditions laid down in Commission Regulation (EC) No 1359/2007 (OJ L 304, 22.11.2007, p. 21), and, if applicable, in Commission Regulation (EC) No 1741/2006 (OJ L 329, 25.11.2006, p. 7).

(<sup>3</sup>) OJ L 308, 8.11.2006, p. 7.

(<sup>4</sup>) OJ L 281, 24.10.2008, p. 3.

(<sup>5</sup>) OJ L 325, 24.11.2006, p. 12.

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

(<sup>7</sup>) Determination of collagen content:

The collagen content shall be taken to mean the hydroxyproline content multiplied by the factor 8. The hydroxyproline content must be determined according to ISO method 3496-1978.

## 6. Pigmeat

CN code	Description of goods	Product code
ex 0103	Live swine:	
	– Other:	
ex 0103 91	– – Weighing less than 50 kg:	
0103 91 10	– – – Domestic species	0103 91 10 9000
ex 0103 92	– – Weighing 50 kg or more:	
	– – – Domestic species:	
0103 92 19	– – – – Other	0103 92 19 9000
ex 0203	Meat of swine, fresh, chilled or frozen:	
	– Fresh or chilled:	
ex 0203 11	– – Carcases and half-carcases:	
0203 11 10	– – – Of domestic swine (12)	0203 11 10 9000
ex 0203 12	– – Hams, shoulders and cuts thereof, with bone in:	
	– – – Of domestic swine:	
ex 0203 12 11	– – – – Hams and cuts thereof:	
	– – – – – With a total bone and cartilage content of less than 25 % by weight	0203 12 11 9100
ex 0203 12 19	– – – – Shoulders and cuts thereof (13):	
	– – – – – With a total bone and cartilage content of less than 25 % by weight	0203 12 19 9100
ex 0203 19	– – Other:	
	– – – Of domestic swine:	
ex 0203 19 11	– – – – Fore-ends and cuts thereof (14):	
	– – – – – With a total bone and cartilage content of less than 25 % by weight	0203 19 11 9100
ex 0203 19 13	– – – – Loins and cuts thereof, with bone in:	
	– – – – – With a total bone and cartilage content of less than 25 % by weight	0203 19 13 9100
ex 0203 19 15	– – – – Bellies (streaky) and cuts thereof:	
	– – – – – With a total bone and cartilage content of less than 15 % by weight	0203 19 15 9100
	– – – – Other:	
ex 0203 19 55	– – – – – Boneless:	
	– – – – – – Hams, fore-ends, shoulders or loins, and cuts thereof (1) (11) (13) (14) (15)	0203 19 55 9110
	– – – – – – Bellies, and cuts thereof, with a total cartilage content of less than 15 % by weight (1) (11)	0203 19 55 9310
	– Frozen:	
ex 0203 21	– – Carcases and half-carcases:	
0203 21 10	– – – Of domestic swine (12)	0203 21 10 9000
ex 0203 22	– – Hams, shoulders and cuts thereof, with bone in:	

CN code	Description of goods	Product code
	- - - Of domestic swine:	
ex 0203 22 11	- - - - Hams and cuts thereof:	
	- - - - With a total bone and cartilage content of less than 25 % by weight	0203 22 11 9100
ex 0203 22 19	- - - - Shoulders and cuts thereof (13):	
	- - - - With a total bone and cartilage content of less than 25 % by weight	0203 22 19 9100
ex 0203 29	- - Other:	
	- - - Of domestic swine:	
ex 0203 29 11	- - - - Fore-ends and cuts thereof (14):	
	- - - - With a total bone and cartilage content of less than 25 % by weight	0203 29 11 9100
ex 0203 29 13	- - - - Loins and cuts thereof, with bone in:	
	- - - - With a total bone and cartilage content of less than 25 % by weight	0203 29 13 9100
ex 0203 29 15	- - - - Bellies (streaky) and cuts thereof:	
	- - - - With a total bone and cartilage content of less than 15 % by weight	0203 29 15 9100
	- - - - Other:	
ex 0203 29 55	- - - - Boneless:	
	- - - - Hams, fore-ends, shoulders and cuts thereof (1) (13) (14) (15) (16)	0203 29 55 9110
ex 0210	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:	
	- Meat of swine:	
ex 0210 11	- - Hams, shoulders and cuts thereof, with bone in:	
	- - - Of domestic swine:	
	- - - - Salted or in brine:	
ex 0210 11 11	- - - - Hams and cuts thereof:	
	- - - - - With a total bone and cartilage content of less than 25 % by weight	0210 11 11 9100
	- - - - Dried or smoked	
ex 0210 11 31	- - - - Hams and cuts thereof:	
	- - - - - "Prosciutto di Parma", "Prosciutto di San Daniele" (?):	
	- - - - - With a total bone and cartilage content of less than 25 % by weight	0210 11 31 9110
	- - - - Other:	
	- - - - - With a total bone and cartilage content of less than 25 % by weight	0210 11 31 9910
ex 0210 12	- - Bellies (streaky) and cuts thereof:	
	- - - Of domestic swine:	
ex 0210 12 11	- - - - Salted or in brine:	
	- - - - - With a total bone and cartilage content of less than 15 % by weight	0210 12 11 9100

CN code	Description of goods	Product code
ex 0210 12 19	-- -- - Dried or smoked: -- -- -- With a total bone and cartilage content of less than 15 % by weight	0210 12 19 9100
ex 0210 19	-- -- Other: -- -- Of domestic swine: -- -- -- Salted or in brine:	
ex 0210 19 40	-- -- -- Loins and cuts thereof: -- -- -- -- With a total bone and cartilage content of less than 25 % by weight	0210 19 40 9100
ex 0210 19 50	-- -- -- Other: -- -- -- -- Boneless: -- -- -- -- -- Hams, fore-ends, shoulders or loins, and cuts thereof (¹) -- -- -- -- -- Bellies and cuts thereof, derinded (¹): -- -- -- -- -- With a total cartilage content of less than 15 % by weight	0210 19 50 9100 0210 19 50 9310
ex 0210 19 81	-- -- -- -- Dried or smoked: -- -- -- -- Other: -- -- -- -- Boneless: -- -- -- -- -- "Prosciutto di Parma", "Prosciutto di San Daniele", and cuts thereof (²) -- -- -- -- -- Hams, fore-ends, shoulders or loins, and cuts thereof (¹)	0210 19 81 9100 0210 19 81 9300
ex 1601 00	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products: – Other (³):	
1601 00 91	– – Sausages, dry or for spreading, uncooked (⁴) (⁶): – – – Not containing the meat or offal of poultry	1601 00 91 9120
	– – – Other	1601 00 91 9190
1601 00 99	– – Other (³) (⁶): – – – Not containing the meat or offal of poultry	1601 00 99 9110
	– – – Other	1601 00 99 9190
ex 1602	Other prepared or preserved meat, meat offal or blood: – Of swine:	
ex 1602 41	– – Hams and cuts thereof:	
ex 1602 41 10	– – – Of domestic swine (⁷): – – – – Cooked, containing by weight 80 % or more of meat and fat (⁸) (⁹): – – – – In immediate packings with a net weight of 1 kg or more (¹⁷)	1602 41 10 9110
	– – – – In immediate packings with a net weight of less than 1 kg	1602 41 10 9130
ex 1602 42	– – Shoulders and cuts thereof:	

CN code	Description of goods	Product code
ex 1602 42 10	<p>– – – Of domestic swine (7):</p> <p>– – – – Cooked, containing by weight 80 % or more of meat and fat (8) (9):</p> <p>– – – – – In immediate packings with a net weight of 1 kg or more (18)</p> <p>– – – – – In immediate packings with a net weight of less than 1 kg</p>	1602 42 10 9110
ex 1602 49	<p>– – Other, including mixtures:</p> <p>– – – Of domestic swine:</p> <p>– – – – Containing by weight 80 % or more of meat or meat offal, of any kind, including fats of any kind or origin:</p>	1602 42 10 9130
ex 1602 49 19	<p>– – – – – Other (7) (10):</p> <p>– – – – – – Cooked, containing by weight 80 % or more of meat and fat (8) (9):</p> <p>– – – – – – Not containing the meat or offal of poultry:</p> <p>– – – – – – – Containing a product composed of clearly recognisable pieces of muscular meat which, due to their size are not identifiable as having been obtained from hams, shoulders, loins or collars, together with small particles of visible fat and small quantities of jelly deposits</p>	1602 49 19 9130

(1) The products and cuts thereof may be classified in this subheading only if the size and the characteristics of the coherent muscle tissue enable them to be identified as coming from the primary cuts mentioned. The expression “cuts thereof” applies to products with a net unit weight of at least 100 grams or to products cut into uniform slices which can be clearly identified as coming from the primary cut mentioned and which are packed together with a net overall weight of at least 100 grams.

(2) Only those products for which the name is certified by the competent authorities of the producing Member State can benefit from this refund.

(3) The refund on sausages presented in containers with a preservative liquid is granted on net weight after deduction of weight of this liquid.

(4) The weight of a coating of paraffin corresponding to normal use in the trade is considered as part of the net weight of the sausage.

(5) Deleted by Commission Regulation (EC) No 2333/97 (OJ L 323, 26.11.1997, p. 25).

(6) If composite food preparations (including prepared dishes) containing sausages, are classified within heading No 1601 because of their composition, the refund is granted only on the net weight of the sausages, the meat and the offal, including fats of any kind or origin, which make part of those preparations.

(7) The refund on products containing bones is granted on the net weight of the product after deduction of the weight of the bones.

(8) Grant of the refund is subject to compliance with the conditions laid down in Commission Regulation (EC) No 903/2008 (OJ L 249, 18.9.2008, p. 3). At the time of the conclusion of customs export formalities the exporter shall declare in writing that the products in question fulfil those conditions.

(9) The meat and fat content is to be determined in accordance with the analysis procedure in the Annex to Commission Regulation (EC) No 2004/2002 (OJ L 308, 9.11.2002, p. 22).

(10) The content of meat or meat offal, of any kind, including fats of any kind or origin, is to be determined in accordance with the analysis procedure in the Annex to Commission Regulation (EEC) No 226/89 (OJ L 29, 31.1.1989, p. 11).

(11) Freezing of the products pursuant to the first paragraph of Article 7(3) of Regulation (EC) No 612/2009 (OJ L 186, 17.7.2009, p. 1) is not permitted.

(12) Carcasses of half-carcasses may be presented with or without the chaps.

(13) Shoulders may be presented with or without the chaps.

(14) Fore-ends may be presented with or without the chaps.

(15) Jowls, chaps or chaps and jowls together, presented alone, do not benefit from this refund.

(16) Boneless, neck-ends, presented alone, do not benefit from this refund.

(17) In the case that the classification of the goods as hams or cuts of hams of heading 1602 41 10 9110 is not justified on the basis of the provisions of additional note 2 of Chapter 16 of the CN, the refund for product code 1602 42 10 9110 or, as the case may be, 1602 49 19 9130 may be granted, without prejudice to the application of Article 48 of Commission Regulation (EC) No 612/2009.

(18) In the case that the classification of the goods as shoulders or cuts of shoulders of heading 1602 42 10 9110 is not justified on the basis of the provisions of additional note 2 of chapter 16 of the CN, the refund for product code 1602 49 19 9130 may be granted, without prejudice to the application of Article 48 of Regulation (EC) No 612/2009.

**7. Poultrymeat**

CN code	Description of goods	Product code
ex 0105	Live poultry, that is to say, fowls of the species <i>Gallus domesticus</i> , ducks, geese, turkeys and guinea fowls:	
	– Weighing not more than 185 g:	
0105 11	– – Fowls of the species <i>Gallus domesticus</i> :	
	– – – Grandparent and parent female chicks	
0105 11 11	– – – – Laying stocks	0105 11 11 9000
0105 11 19	– – – – Other	0105 11 19 9000
	– – – Other:	
0105 11 91	– – – – Laying stocks	0105 11 91 9000
0105 11 99	– – – – Other	0105 11 99 9000
0105 12 00	– – Turkeys	0105 12 00 9000
ex 0105 19	– – Other:	
0105 19 20	– – – Geese	0105 19 20 9000
ex 0207	Meat and edible offal, of the poultry heading 0105, fresh, chilled or frozen	
	– Of fowls of the species <i>Gallus domesticus</i> :	
ex 0207 12	– – Not cut in pieces, frozen:	
ex 0207 12 10	– – – Plucked and drawn, without heads and feet but with necks, hearts, livers and gizzards, known as “70 % chickens”	
	– – – – With completely ossified sternum tips, femurs and tibias	
	– – – – Other	0207 12 10 9900
ex 0207 12 90	– – – Plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as “65 % chickens” or otherwise presented:	
	– – – – “65 % chickens”:	
	– – – – – With completely ossified sternum tips, femurs and tibias	
	– – – – – Other	0207 12 90 9190
	– – – – Fowls of the species <i>Gallus domesticus</i> , plucked and drawn, without heads and feet but with necks, hearts, livers and gizzards in irregular composition:	
	– – – – – Fowls of the species <i>Gallus domesticus</i> , with completely ossified sternum tips, femurs and tibias	
	– – – – – Other	0207 12 90 9990
ex 0207 14	– – Cuts and offal, frozen:	
	– – – Cuts:	
	– – – – With bone in:	
ex 0207 14 20	– – – – – Halves or quarters:	
	– – – – – Of fowls of species <i>Gallus domesticus</i> with completely ossified sternum tips, femurs and tibias	
	– – – – – Other	0207 14 20 9900

CN code	Description of goods	Product code
ex 0207 14 60	- - - - - Legs and cuts thereof: - - - - - Of fowls of the species <i>Gallus domesticus</i> with completely ossified sternum tips, femurs and tibias - - - - - Other	0207 14 60 9900
ex 0207 14 70	- - - - - Other: - - - - - Halves or quarters without rumps: - - - - - Of fowls of the species <i>Gallus domesticus</i> with completely ossified sternum tips, femurs and tibias - - - - - Other - - - - - Cuts consisting of a whole leg or part of a leg and part of the back where the weight of the back does not exceed 25 % of the total weight: - - - - - Of fowls of the species <i>Gallus domesticus</i> with completely ossified femurs - - - - - Other	0207 14 70 9190
	- Of turkeys: - - Not cut in pieces, frozen:	0207 14 70 9290
0207 25	- - Plucked and drawn, without heads and feet but with necks, hearts, livers and gizzards, known as "80 % turkeys"	0207 25 10 9000
0207 25 90	- - Plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as "73 % turkeys", or otherwise presented	0207 25 90 9000
ex 0207 27	- - Cuts and offal, frozen: - - - Cuts:	
ex 0207 27 10	- - - Boneless: - - - - Homogenised meat, including mechanically recovered meat - - - - Other: - - - - Other than rumps - - - - With bone in: - - - - Legs and cuts thereof:	0207 27 10 9990
0207 27 60	- - - - - Drumsticks and cuts thereof	0207 27 60 9000
0207 27 70	- - - - - Other	0207 27 70 9000

## 8. Eggs

CN code	Description of goods	Product code
ex 0407 00	Birds' eggs, in shell, fresh, preserved or cooked: – Of poultry: – – For hatching (¹):	
0407 00 11	– – – Of turkeys or geese	0407 00 11 9000
0407 00 19	– – – Other	0407 00 19 9000
0407 00 30	– – Other	0407 00 30 9000
0408	Birds' eggs, not in shell, and egg yolks, fresh, dried, cooked by steaming or by boiling water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter: – Egg yolks:	
ex 0408 11	– – Dried:	
ex 0408 11 80	– – – Other: – – – – Suitable for human consumption	0408 11 80 9100
ex 0408 19	– – Other: – – – Other:	
ex 0408 19 81	– – – – Liquid: – – – – – Suitable for human consumption	0408 19 81 9100
ex 0408 19 89	– – – – Other, including frozen: – – – – – Suitable for human consumption	0408 19 89 9100
	– Other:	
ex 0408 91	– – Dried:	
ex 0408 91 80	– – – Other: – – – – Suitable for human consumption	0408 91 80 9100
ex 0408 99	– – Other:	
ex 0408 99 80	– – – Other: – – – – Suitable for human consumption	0408 99 80 9100

(¹) Applies only to poultry eggs which fulfil the conditions stipulated by the competent authorities of the European Communities and on which are stamped the identifying number of the producer establishment and/or other particulars as provided for in Article 3(5) of Commission Regulation (EC) No 617/2008 (OJ L 168, 28.6.2008, p. 5).

### 9. Milk and milk products

CN code	Description of goods	Product code
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter ( <sup>15</sup> ):	
0401 10	– Of a fat content, by weight, not exceeding 1 %:	
0401 10 10	– – In immediate packings of a net content not exceeding 2 litres	0401 10 10 9000
0401 10 90	– – Other	0401 10 90 9000
0401 20	– Of a fat content, by weight, exceeding 1 % but not exceeding 6 %:	
	– – Not exceeding 3 %:	
0401 20 11	– – – In immediate packings of a net content not exceeding 2 litres:	
	– – – – Of a fat content, by weight, not exceeding 1,5 %	0401 20 11 9100
	– – – – Of a fat content, by weight, exceeding 1,5 %	0401 20 11 9500
0401 20 19	– – – Other:	
	– – – – Of a fat content, by weight, not exceeding 1,5 %	0401 20 19 9100
	– – – – Of a fat content, by weight, exceeding 1,5 %	0401 20 19 9500
	– – Exceeding 3 %:	
0401 20 91	– – – In immediate packings of a net content not exceeding 2 litres	0401 20 91 9000
0401 20 99	– – – Other	0401 20 99 9000
0401 30	– Of a fat content, by weight, exceeding 6 %:	
	– – Not exceeding 21 %:	
0401 30 11	– – – In immediate packings of a net content not exceeding 2 litres:	
	– – – – Of a fat content, by weight:	
	– – – – – Exceeding 10 % but not exceeding 17 %	0401 30 11 9400
	– – – – – Exceeding 17 %	0401 30 11 9700
0401 30 19	– – – Other:	
	– – – – Of a fat content, by weight, exceeding 17 %:	0401 30 19 9700
	– – Exceeding 21 % but not exceeding 45 %	
0401 30 31	– – – In immediate packings of a net content not exceeding 2 litres:	
	– – – – Of a fat content, by weight:	
	– – – – – Not exceeding 35 %	0401 30 31 9100
	– – – – – Exceeding 35 % but not exceeding 39 %	0401 30 31 9400
	– – – – – Exceeding 39 %	0401 30 31 9700
0401 30 39	– – – Other:	
	– – – – Of a fat content, by weight:	
	– – – – – Not exceeding 35 %	0401 30 39 9100

CN code	Description of goods	Product code
	-- -- -- Exceeding 35 % but not exceeding 39 %	0401 30 39 9400
	-- -- -- Exceeding 39 %	0401 30 39 9700
	-- -- Exceeding 45 %:	
0401 30 91	-- -- In immediate packings of a net content not exceeding 2 litres:	
	-- -- -- Of a fat content, by weight:	
	-- -- -- Not exceeding 68 %	0401 30 91 9100
	-- -- -- Exceeding 68 %	0401 30 91 9500
0401 30 99	-- -- Other:	
	-- -- -- Of a fat content, by weight:	
	-- -- -- Not exceeding 68 %	0401 30 99 9100
	-- -- -- Exceeding 68 %	0401 30 99 9500
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter <sup>(8)</sup> :	
ex 0402 10	- In powder, granules or other solid forms, of a fat content, by weight, not exceeding 1,5 % <sup>(11)</sup> :	
	-- Not containing added sugar or other sweetening matter <sup>(13)</sup> :	
0402 10 11	-- -- In immediate packings of a net content not exceeding 2,5 kg	0402 10 11 9000
0402 10 19	-- -- Other	0402 10 19 9000
	-- -- Other <sup>(14)</sup> :	
0402 10 91	-- -- In immediate packings of a net content not exceeding 2,5 kg	0402 10 91 9000
0402 10 99	-- -- Other	0402 10 99 9000
	- In powder, granules or other solid forms, of a fat content, by weight, exceeding 1,5 % <sup>(11)</sup> :	
ex 0402 21	-- Not containing added sugar or other sweetening matter <sup>(13)</sup> :	
	-- -- Of a fat content, by weight, not exceeding 27 %:	
0402 21 11	-- -- -- In immediate packings of a net content not exceeding 2,5 kg:	
	-- -- -- -- Of a fat content, by weight:	
	-- -- -- -- Not exceeding 11 %	0402 21 11 9200
	-- -- -- -- Exceeding 11 % but not exceeding 17 %	0402 21 11 9300
	-- -- -- -- Exceeding 17 % but not exceeding 25 %	0402 21 11 9500
	-- -- -- -- Exceeding 25 %	0402 21 11 9900
	-- -- -- Other:	
0402 21 17	-- -- -- -- Of a fat content, by weight, not exceeding 11 %	0402 21 17 9000
0402 21 19	-- -- -- -- Of a fat content, by weight, exceeding 11 % but not exceeding 27 %:	
	-- -- -- -- Not exceeding 17 %	0402 21 19 9300
	-- -- -- -- Exceeding 17 % but not exceeding 25 %	0402 21 19 9500
	-- -- -- -- Exceeding 25 %	0402 21 19 9900

CN code	Description of goods	Product code
0402 21 91	- - - Of a fat content, by weight, exceeding 27 %: - - - - In immediate packings of a net content not exceeding 2,5 kg: - - - - - Of a fat content, by weight: - - - - - - Not exceeding 28 % - - - - - - Exceeding 28 % but not exceeding 29 % - - - - - - Exceeding 29 % but not exceeding 45 % - - - - - - Exceeding 45 %	0402 21 91 9100 0402 21 91 9200 0402 21 91 9350 0402 21 91 9500
0402 21 99	- - - Other: - - - - Of a fat content, by weight: - - - - - Not exceeding 28 % - - - - - Exceeding 28 % but not exceeding 29 % - - - - - Exceeding 29 % but not exceeding 41 % - - - - - Exceeding 41 % but not exceeding 45 % - - - - - Exceeding 45 % but not exceeding 59 % - - - - - Exceeding 59 % but not exceeding 69 % - - - - - Exceeding 69 % but not exceeding 79 % - - - - - Exceeding 79 %	0402 21 99 9100 0402 21 99 9200 0402 21 99 9300 0402 21 99 9400 0402 21 99 9500 0402 21 99 9600 0402 21 99 9700 0402 21 99 9900
ex 0402 29	-- Other ( <sup>14)</sup> : -- - Of a fat content, by weight, not exceeding 27 %: -- - - Other: 0402 29 15	
0402 29 15	- - - - In immediate packings of a net content not exceeding 2,5 kg: - - - - - Of a fat content, by weight: - - - - - - Not exceeding 11 % - - - - - - Exceeding 11 % but not exceeding 17 % - - - - - - Exceeding 17 % but not exceeding 25 % - - - - - - Exceeding 25 %	0402 29 15 9200 0402 29 15 9300 0402 29 15 9500 0402 29 15 9900
0402 29 19	- - - - Other: - - - - - Of a fat content, by weight: - - - - - - Exceeding 11 % but not exceeding 17 % - - - - - - Exceeding 17 % but not exceeding 25 % - - - - - - Exceeding 25 %	0402 29 19 9300 0402 29 19 9500 0402 29 19 9900
0402 29 91	- - - Of a fat content, by weight, exceeding 27 %: - - - - In immediate packings of a net content not exceeding 2,5 kg	0402 29 91 9000

CN code	Description of goods	Product code
0402 29 99	<ul style="list-style-type: none"> <li>– – – – Other:</li> <li>– – – – Of a fat content, by weight:           <ul style="list-style-type: none"> <li>– – – – – Not exceeding 41 %</li> <li>– – – – – Exceeding 41 %</li> </ul> </li> <li>– Other:</li> </ul>	
0402 91	<ul style="list-style-type: none"> <li>– – Not containing added sugar or other sweetening matter <sup>(13)</sup>:</li> </ul>	
0402 91 10	<ul style="list-style-type: none"> <li>– – Of a fat content, by weight, not exceeding 8 %:           <ul style="list-style-type: none"> <li>– – – Of a non-fat lactic dry matter content of 15 % or more and of a fat content, by weight exceeding 7,4 %</li> </ul> </li> </ul>	0402 91 10 9370
0402 91 30	<ul style="list-style-type: none"> <li>– – Of a fat content, by weight, exceeding 8 % but not exceeding 10 %:           <ul style="list-style-type: none"> <li>– – – Of a non-fat lactic dry matter content of 15 % or more</li> <li>– – – Of a fat content, by weight exceeding 45 %</li> </ul> </li> </ul>	0402 91 30 9300
0402 91 99	<ul style="list-style-type: none"> <li>– – – Other</li> </ul>	0402 91 99 9000
0402 99	<ul style="list-style-type: none"> <li>– – Other <sup>(14)</sup>:</li> </ul>	
0402 99 10	<ul style="list-style-type: none"> <li>– – – Of a fat content, by weight, not exceeding 9,5 %:           <ul style="list-style-type: none"> <li>– – – Of a sucrose content of 40 % or more by weight, of a non-fat lactic dry matter content of 15 % or more and of a fat content, by weight, exceeding 6,9 %</li> <li>– – – Of a fat content, by weight, exceeding 9,5 % but not exceeding 45 %:</li> </ul> </li> </ul>	0402 99 10 9350
0402 99 31	<ul style="list-style-type: none"> <li>– – – In immediate packings not exceeding 2,5 kg:           <ul style="list-style-type: none"> <li>– – – – Of a fat content, by weight, not exceeding 21 %:               <ul style="list-style-type: none"> <li>– – – – – Of a sucrose content of 40 % or more by weight and of a non-fat lactic dry matter content, by weight, of 15 % or more</li> <li>– – – – – Of a fat content, by weight, exceeding 21 % but not exceeding 39 %</li> <li>– – – – – Of a fat content, by weight, exceeding 39 %</li> </ul> </li> </ul> </li> </ul>	0402 99 31 9150 0402 99 31 9300 0402 99 31 9500
0402 99 39	<ul style="list-style-type: none"> <li>– – – Other:</li> </ul>	
	<ul style="list-style-type: none"> <li>– – – – Of a fat content, by weight, not exceeding 21 %, of a sucrose content of 40 % or more by weight and of a non-fat lactic dry matter content, by weight, of 15 % or more</li> </ul>	0402 99 39 9150
ex 0403	Buttermilk, curdled milk and cream, yoghurt, kefir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruits, nuts or cocoa:	
ex 0403 90	<ul style="list-style-type: none"> <li>– Other:</li> <li>– – Not flavoured nor containing added fruit, nuts or cocoa:</li> <li>– – – In powder, granules or other solid forms <sup>(8) (12)</sup>:</li> <li>– – – Not containing added sugar or other sweetening matter, of a fat content, by weight <sup>(1)</sup>:</li> </ul>	
0403 90 11	<ul style="list-style-type: none"> <li>– – – – Not exceeding 1,5 %</li> </ul>	0403 90 11 9000
0403 90 13	<ul style="list-style-type: none"> <li>– – – – Exceeding 1,5 % but not exceeding 27 %:           <ul style="list-style-type: none"> <li>– – – – – Not exceeding 11 %</li> </ul> </li> </ul>	0403 90 13 9200

CN code	Description of goods	Product code
	- - - - - Exceeding 11 % but not exceeding 17 %	0403 90 13 9300
	- - - - - Exceeding 17 % but not exceeding 25 %	0403 90 13 9500
	- - - - - Exceeding 25 %	0403 90 13 9900
0403 90 19	- - - - - Exceeding 27 %	0403 90 19 9000
	- - - - Other, of a fat content, by weight ( <sup>4</sup> ):	
0403 90 33	- - - - - Exceeding 1,5 % but not exceeding 27 %:	
	- - - - - Exceeding 11 % but not exceeding 25 %	0403 90 33 9400
	- - - - - Exceeding 25 %	0403 90 33 9900
	- - - - Other:	
	- - - - Not containing added sugar or other sweetening matter, of a fat content, by weight ( <sup>1</sup> ):	
0403 90 51	- - - - - Not exceeding 3 %:	
	- - - - - Not exceeding 1,5 %	0403 90 51 9100
0403 90 59	- - - - - Exceeding 6 %:	
	- - - - - Exceeding 17 % but not exceeding 21 %	0403 90 59 9170
	- - - - - Exceeding 21 % but not exceeding 35 %	0403 90 59 9310
	- - - - - Exceeding 35 % but not exceeding 39 %	0403 90 59 9340
	- - - - - Exceeding 39 % but not exceeding 45 %	0403 90 59 9370
	- - - - - Exceeding 45 %	0403 90 59 9510
ex 0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included:	
0404 90	- Other:	
	- - Not containing added sugar or other sweetening matter, of a fat content, by weight ( <sup>1</sup> ):	
ex 0404 90 21	- - - Not exceeding 1,5 %:	
	- - - In powder or granules, with a water content not exceeding 5 % and a milk protein content in milk solids-non-fat:	
	- - - - Of 29 % or more but less than 34 %	0404 90 21 9120
	- - - - Of 34 % or more	0404 90 21 9160
0404 90 23	- - - Exceeding 1,5 % but not exceeding 27 % ( <sup>8</sup> ):	
	- - - - In powder or granules:	
	- - - - Of a fat content, by weight:	
	- - - - - Not exceeding 11 %	0404 90 23 9120
	- - - - - Exceeding 11 % but not exceeding 17 %	0404 90 23 9130
	- - - - - Exceeding 17 % but not exceeding 25 %	0404 90 23 9140
	- - - - - Exceeding 25 %	0404 90 23 9150

CN code	Description of goods	Product code
ex 0404 90 29	<ul style="list-style-type: none"> <li>--- Exceeding 27 % (8):           <ul style="list-style-type: none"> <li>--- In powder or granules, of a fat content by weight:               <ul style="list-style-type: none"> <li>---- Not exceeding 28 %</li> <li>---- Exceeding 28 % but not exceeding 29 %</li> <li>---- Exceeding 29 % but not exceeding 45 %</li> <li>---- Exceeding 45 %</li> <li>--- Other, of a fat content, by weight (4) (8):                   <ul style="list-style-type: none"> <li>--- Not exceeding 1,5 %:</li> <li>--- In powder or granules</li> </ul> </li> </ul> </li> </ul> </li> </ul>	
	0404 90 29 9110	
	0404 90 29 9115	
	0404 90 29 9125	
	0404 90 29 9140	
0404 90 81	<ul style="list-style-type: none"> <li>--- Not exceeding 1,5 %:</li> <li>--- In powder or granules</li> </ul>	0404 90 81 9100
ex 0404 90 83	<ul style="list-style-type: none"> <li>--- Exceeding 1,5 % but not exceeding 27 %:       <ul style="list-style-type: none"> <li>--- In powder or granules:           <ul style="list-style-type: none"> <li>---- Of a fat content, by weight:               <ul style="list-style-type: none"> <li>----- Not exceeding 11 %</li> <li>----- Exceeding 11 % but not exceeding 17 %</li> <li>----- Exceeding 17 % but not exceeding 25 %</li> <li>----- Exceeding 25 %</li> <li>--- Other than powder or granules:                   <ul style="list-style-type: none"> <li>----- Of a sucrose content of 40 % or more by weight, of a non-fat lactic dry matter content of not less than 15 % by weight and a fat content by weight exceeding 6,9 %</li> </ul> </li> </ul> </li> </ul> </li> </ul> </li></ul>	0404 90 83 9110
		0404 90 83 9130
		0404 90 83 9150
		0404 90 83 9170
		0404 90 83 9936
ex 0405	Butter and other fats and oils derived from milk; dairy spreads:	
0405 10	<ul style="list-style-type: none"> <li>- Butter:       <ul style="list-style-type: none"> <li>-- Of a fat content, by weight, not exceeding 85 %:           <ul style="list-style-type: none"> <li>-- Natural butter:</li> </ul> </li> </ul> </li> </ul>	
		0405 10 11 9500
0405 10 11	<ul style="list-style-type: none"> <li>--- In immediate packings of a net content not exceeding 1 kg:       <ul style="list-style-type: none"> <li>--- Of a fat content, by weight:           <ul style="list-style-type: none"> <li>---- Of 80 % or more but less than 82 %</li> <li>---- Of 82 % or more</li> </ul> </li> </ul> </li> </ul>	0405 10 11 9700
0405 10 19	<ul style="list-style-type: none"> <li>--- Other:       <ul style="list-style-type: none"> <li>--- Of a fat content by weight:           <ul style="list-style-type: none"> <li>---- Of 80 % or more but less than 82 %</li> <li>---- Of 82 % or more</li> </ul> </li> </ul> </li> </ul>	0405 10 19 9500
		0405 10 19 9700
0405 10 30	<ul style="list-style-type: none"> <li>-- Recombined butter:       <ul style="list-style-type: none"> <li>--- In immediate packings of a net content not exceeding 1 kg:           <ul style="list-style-type: none"> <li>--- Of a fat content by weight:</li> </ul> </li> </ul> </li> </ul>	

CN code	Description of goods	Product code	
0405 10 50	<ul style="list-style-type: none"> <li>- - - - - Of 80 % or more but less than 82 %</li> <li>- - - - - Of 82 % or more</li> <li>- - - - Other:           <ul style="list-style-type: none"> <li>- - - - Of a fat content by weight:</li> <li>- - - - - Of 82 % or more</li> <li>- - - Whey butter:               <ul style="list-style-type: none"> <li>- - - In immediate packings of a net content not exceeding 1 kg:                   <ul style="list-style-type: none"> <li>- - - - Of a fat content by weight:</li> <li>- - - - - Of 82 % or more</li> <li>- - - Other:                       <ul style="list-style-type: none"> <li>- - - - Of a fat content by weight:</li> <li>- - - - - Of 80 % or more but less than 82 %</li> <li>- - - - - Of 82 % or more</li> </ul> </li> </ul> </li> </ul> </li> </ul> </li></ul>	<ul style="list-style-type: none"> <li>0405 10 30 9100</li> <li>0405 10 30 9300</li> <li>0405 10 30 9700</li> <li>0405 10 50 9300</li> <li>0405 10 50 9500</li> <li>0405 10 50 9700</li> <li>0405 10 90 9000</li> </ul>	
ex 0405 20	- Dairy spreads:		
0405 20 90	<ul style="list-style-type: none"> <li>- - Of a fat content, by weight, of more than 75 % but less than 80 %:           <ul style="list-style-type: none"> <li>- - - Of a fat content by weight:               <ul style="list-style-type: none"> <li>- - - - Of more than 75 % but less than 78 %</li> <li>- - - - Of 78 % or more</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>0405 20 90 9500</li> <li>0405 20 90 9700</li> </ul>	
0405 90	- Other:		
0405 90 10	- - Of a fat content, by weight, of 99,3 % or more and of a water content, by weight, not exceeding 0,5 %	0405 90 10 9000	
0405 90 90	- - Other	0405 90 90 9000	
CN code	Description of goods	Additional requirements for using the product code	Product code
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)
ex 0406	Cheese and curd (7) (10):		
ex 0406 10	- Fresh (unripened or uncured) cheese, including whey cheese and curd:		
ex 0406 10 20	<ul style="list-style-type: none"> <li>- - Of a fat content, by weight, not exceeding 40 %:           <ul style="list-style-type: none"> <li>- - - Whey cheese, except for salted Ricotta</li> <li>- - - Other:               <ul style="list-style-type: none"> <li>- - - - Of a water content calculated by weight in the non-fatty matter exceeding 47 % but not exceeding 72 %:</li> </ul> </li> </ul> </li> </ul>		0406 10 20 9100

CN code	Description of goods	Additional requirements for using the product code		Product code
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)	
	-- -- - - Ricotta, salted:			
	-- -- - - Manufactured exclusively from sheep's milk	55	45	0406 10 20 9230
	-- -- - - Other	55	39	0406 10 20 9290
	-- -- - - Cottage cheese	60		0406 10 20 9300
	-- -- - - Other:			
	-- -- - - Of a fat content, by weight, in the dry matter:			
	-- -- - - - Of less than 5 %	60		0406 10 20 9610
	-- -- - - - Of 5 % or more but less than 19 %	60	5	0406 10 20 9620
	-- -- - - - Of 19 % or more but less than 39 %	57	19	0406 10 20 9630
	-- -- - - - Other, of a water content calculated by weight of the non-fatty matter:			
	-- -- - - - - Exceeding 47 % but not exceeding 52 %	40	39	0406 10 20 9640
	-- -- - - - - Exceeding 52 % but not exceeding 62 %	50	39	0406 10 20 9650
	-- -- - - - - Exceeding 62 %			0406 10 20 9660
	-- -- - - Of a water content calculated by weight of the non-fatty matter exceeding 72 %:			
	-- -- - - - Cream cheese of a water content calculated by weight of the non-fatty matter exceeding 77 % but not exceeding 83 % and of a fat content, by weight, in the dry matter:			
	-- -- - - - - Of 60 % or more but less than 69 %	60	60	0406 10 20 9830
	-- -- - - - - Of 69 % or more	59	69	0406 10 20 9850
	-- -- - - - Other			0406 10 20 9870
	-- -- - - Other			0406 10 20 9900
ex 0406 20	- Grated or powdered cheese, of all kinds:			
ex 0406 20 90	-- Other:			
	-- - Cheeses produced from whey			0406 20 90 9100
	-- - Other:			
	-- - - Of a fat content, by weight, exceeding 20 %, of a lactose content by weight of less than 5 % and of a dry matter content, by weight:			
	-- - - - Of 60 % or more but less than 80 %	40	34	0406 20 90 9913
	-- - - - Of 80 % or more but less than 85 %	20	30	0406 20 90 9915
	-- - - - Of 85 % or more but less than 95 %	15	30	0406 20 90 9917
	-- - - - Of 95 % or more	5	30	0406 20 90 9919

CN code	Description of goods	Additional requirements for using the product code		Product code
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)	
ex 0406 30	<ul style="list-style-type: none"> <li>- - - - Other</li> <li>- Processed cheese, not grated or powdered:</li> <li>- - Other:</li> <li>- - - Of a fat content, by weight, not exceeding 36 % and of a fat content, by weight, in the dry matter:</li> </ul>			0406 20 90 9990
ex 0406 30 31	<ul style="list-style-type: none"> <li>- - - - Not exceeding 48 %:</li> <li>- - - - - Of a dry matter content, by weight:</li> <li>- - - - - Of 40 % or more but less than 43 %, and of a fat content, by weight, in the dry matter:</li> <li>- - - - - Of less than 20 %</li> <li>- - - - - Of 20 % or more</li> <li>- - - - - Of 43 % or more and with a fat content, by weight, in the dry matter:</li> <li>- - - - - Of less than 20 %</li> <li>- - - - - Of 20 % or more but less than 40 %</li> <li>- - - - - Of 40 % or more</li> </ul>	60	20	0406 30 31 9710 0406 30 31 9730
ex 0406 30 39	<ul style="list-style-type: none"> <li>- - - - Exceeding 48 %:</li> <li>- - - - - Of a dry matter content, by weight:</li> <li>- - - - - Of 40 % or more but less than 43 %</li> <li>- - - - - Of 43 % or more but less than 46 %</li> <li>- - - - - Of 46 % or more and with a fat content, by weight, in the dry matter:</li> <li>- - - - - Of less than 55 %</li> <li>- - - - - Of 55 % or more</li> </ul>	60	48	0406 30 39 9500
ex 0406 30 90	<ul style="list-style-type: none"> <li>- - - Of a fat content exceeding 36 %</li> </ul>	54	79	0406 30 90 9000
ex 0406 40	<ul style="list-style-type: none"> <li>- Blue-veined cheese and other cheese containing veins produced by <i>Penicillium roqueforti</i>:</li> </ul>			
ex 0406 40 50	<ul style="list-style-type: none"> <li>- - Gorgonzola</li> </ul>	53	48	0406 40 50 9000
ex 0406 40 90	<ul style="list-style-type: none"> <li>- - Other</li> </ul>	50	40	0406 40 90 9000
ex 0406 90	<ul style="list-style-type: none"> <li>- Other cheese:</li> <li>- - Other:</li> </ul>			
ex 0406 90 13	<ul style="list-style-type: none"> <li>- - - Emmentaler</li> </ul>	40	45	0406 90 13 9000
ex 0406 90 15	<ul style="list-style-type: none"> <li>- - - Gruyère, Sbrinz:</li> <li>- - - - Gruyère</li> </ul>	38	45	0406 90 15 9100
ex 0406 90 17	<ul style="list-style-type: none"> <li>- - - Bergkäse, Appenzell:</li> </ul>			

CN code	Description of goods	Additional requirements for using the product code		Product code
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)	
	-- -- - Bergkäse	38	45	0406 90 17 9100
ex 0406 90 21	-- -- Cheddar	39	48	0406 90 21 9900
ex 0406 90 23	-- -- Edam	47	40	0406 90 23 9900
ex 0406 90 25	-- -- Tilsit	47	45	0406 90 25 9900
ex 0406 90 27	-- -- Butterkäse	52	45	0406 90 27 9900
ex 0406 90 29	-- -- Kashkaval:			
	-- -- - manufactured from sheep's and/or goats's milk	42	50	0406 90 29 9100
	-- -- - manufactured exclusively from cow's milk	44	45	0406 90 29 9300
ex 0406 90 32	-- -- Feta (?):			
	-- -- - manufactured exclusively from sheep's milk or from sheep's and goat's milk:			
	-- -- -- Of a water content calculated by weight of the non-fatty matter not exceeding 72 %	56	43	0406 90 32 9119
ex 0406 90 35	-- -- Kefalotyri:			
	-- -- - manufactured exclusively from sheep's and/or goats's milk	38	40	0406 90 35 9190
	-- -- - Other:	38	40	0406 90 35 9990
ex 0406 90 37	-- -- Finlandia	40	45	0406 90 37 9000
	-- -- Other:			
	-- -- - Other:			
	-- -- -- Of a fat content, by weight, not exceeding 40 % and a water content, by weight, in the non-fatty matter:			
	-- -- -- -- not exceeding 47 %:			
ex 0406 90 61	-- -- -- -- Grana Padano, Parmigiano Reggiano	35	32	0406 90 61 9000
ex 0406 90 63	-- -- -- -- Fiore Sardo, Pecorino:			
	-- -- -- -- -- manufactured exclusively from sheep's milk	35	36	0406 90 63 9100
	-- -- -- -- -- Other	35	36	0406 90 63 9900
ex 0406 90 69	-- -- -- -- Other:			
	-- -- -- -- -- Cheeses produced from whey			0406 90 69 9100
	-- -- -- -- -- Other	38	30	0406 90 69 9910
	-- -- -- -- -- Exceeding 47 % but not exceeding 72 %:			
ex 0406 90 73	-- -- -- -- -- Provolone	45	44	0406 90 73 9900
ex 0406 90 75	-- -- -- -- -- Asiago, Caciocavallo, Montasio, Ragusano	45	39	0406 90 75 9900
ex 0406 90 76	-- -- -- -- -- Danbo, Fontal, Fontina, Fynbo, Havarti, Maribo, Samsø:			

CN code	Description of goods	Additional requirements for using the product code		Product code
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)	
	- - - - - Of a fat content, by weight, in the dry matter of 45 % or more but less than 55 %:			
	- - - - - Of a dry matter content, by weight, of 50 % or more but less than 56 %	50	45	0406 90 76 9300
	- - - - - Of a dry matter content, by weight, of 56 % or more	44	45	0406 90 76 9400
	- - - - - Of a fat content, by weight, in the dry matter of 55 % or more	46	55	0406 90 76 9500
ex 0406 90 78	- - - - - Gouda:			
	- - - - - Of a fat content, by weight, in the dry matter of less than 48 %	50	20	0406 90 78 9100
	- - - - - Of a fat content, by weight, in the dry matter of 48 % or more but less than 55 %	45	48	0406 90 78 9300
	- - - - - Other:	45	55	0406 90 78 9500
ex 0406 90 79	- - - - - Esrom, Italico, Kernhem, Saint Nectaire, Saint Paulin, Taleggio	56	40	0406 90 79 9900
ex 0406 90 81	- - - - - Cantal, Cheshire, Wensleydale, Lancashire, Double Gloucester, Blarney, Colby, Monterey	44	45	0406 90 81 9900
ex 0406 90 85	- - - - - Kefalograviera, Kasseri:			
	- - - - - Of a water content, by weight, not exceeding 40 %	40	39	0406 90 85 9930
	- - - - - Of a water content, by weight, exceeding 40 % but not exceeding 45 %	45	39	0406 90 85 9970
	- - - - - Other			0406 90 85 9999
	- - - - - Other cheeses, of a water content, by weight, in the non-fatty matter:			
ex 0406 90 86	- - - - - Exceeding 47 % but not exceeding 52 %:			
	- - - - - cheeses produced from whey			0406 90 86 9100
	- - - - - Other, of a fat content, by weight, in the dry matter:			
	- - - - - Of less than 5 %	52		0406 90 86 9200
	- - - - - Of 5 % or more but less than 19 %	51	5	0406 90 86 9300
	- - - - - Of 19 % or more but less than 39 %	47	19	0406 90 86 9400
	- - - - - Of 39 % or more	40	39	0406 90 86 9900
ex 0406 90 87	- - - - - Exceeding 52 % but not exceeding 62 %:			
	- - - - - Cheese produced from whey, except for Manouri			0406 90 87 9100
	- - - - - Other, of a fat content, by weight, in the dry matter:			
	- - - - - Of less than 5 %	60		0406 90 87 9200
	- - - - - Of 5 % or more but less than 19 %	55	5	0406 90 87 9300
	- - - - - Of 19 % or more but less than 40 %	53	19	0406 90 87 9400

CN code	Description of goods	Additional requirements for using the product code		Product code
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)	
	----- Of 40 % or more:			
	----- Idiazabal, Manchego and Roncal, manufactured exclusively from sheep's milk	45	45	0406 90 87 9951
	----- Maasdam	45	45	0406 90 87 9971
	----- Manouri	43	53	0406 90 87 9972
	----- Hushällsost	46	45	0406 90 87 9973
	----- Murukoloinen	41	50	0406 90 87 9974
	----- Gräddost	39	60	0406 90 87 9975
	----- Other	47	40	0406 90 87 9979
ex 0406 90 88	----- Exceeding 62 % but not exceeding 72 %:			
	----- cheeses produced from whey			0406 90 88 9100
	----- Other:			
	----- Of a fat content, by weight, in the dry matter:			
	----- Of 10 % or more but less than 19 %	60	10	0406 90 88 9300
	----- Of 40 % or more:			
	----- Akawi	55	40	0406 90 88 9500

(<sup>1</sup>) Where the product falling within this subheading contains added whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504, the added whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 must not be taken into account in the calculation of the refund.

The products referred to may contain small quantities of added non-lactic matter required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund.

If the product falling within this subheading consists of permeate, no export refund is payable.

When completing customs formalities, the applicant must state on the declaration provided for that purpose whether the product consists of permeate or whether or not non-lactic matter and/or whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 have been added and, where this is the case:

- the maximum content by weight of non-lactic matter and/or whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 added per 100 kilograms of finished product, and in particular,

- the lactose content of the added whey.

(<sup>2</sup>) Deleted by Commission Regulation (EC) No 2287/2000 (OJ L 260, 14.10.2000, p. 22).

(<sup>3</sup>) Where the product contains casein and/or caseinates added before or at the time of processing, no refund is payable. When completing customs formalities, the applicant must state on the declaration provided for that purpose whether or not casein and/or caseinates have been added.

(<sup>4</sup>) The refund per 100 kilograms of product covered by this subheading is equal to the sum of the following components:

- (a) the amount per 100 kilogram shown, multiplied by the percentage of the lactic matter contained in 100 kilograms of product. The products referred to may contain small quantities of added non-lactic matter required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund.

Where whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 have been added to the product, the amount per kilogram shown is to be multiplied by the weight of the lactic matter other than whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 added per 100 kilograms of product;

- (b) a component calculated in accordance with Article 14 (3) of Commission Regulation (EC) No 1187/2009 (OJ L 318, 4.12.2009, p. 1).

When completing customs formalities, the applicant must state on the declaration provided for that purpose whether the product consists of permeate or whether or not non-lactic matter and/or whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 have been added and, where this is the case:

— the maximum content by weight of sucrose and/or other non-lactic matter and/or whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 added per 100 kilograms of finished product,  
and in particular,

— the lactose content of the added whey.

If the lactic matter in the product consists of permeate, no export refund is payable.

(<sup>8</sup>) Deleted by Commission Regulation (EC) No 707/98 (OJ L 98, 31.3.1998, p. 11).

(<sup>9</sup>) Deleted by Commission Regulation (EC) No 823/96 (OJ L 111, 4.5.1996, p. 9).

(<sup>10</sup>) (a) In the case of cheeses presented in immediate packing which also contain preserving liquid, in particular brine, the refund is granted on the net weight, less the weight of the liquid.

(b) The film of plastic, the paraffin, the ash and the wax used as a packing are not considered as a part of the net weight of the product for the purpose of the refund.

(c) Where the cheese is presented in a film of plastic, and where the net weight declared includes the weight of the film in plastic, the refund amount shall be reduced by 0,5 %.

When completing customs formalities, the applicant shall state that the cheese is packed in a film of plastic and whether the declared net weight includes the weight of the film in plastic.

(d) Where the cheese is presented in paraffin or ash, and where the net weight declared includes the weight of the paraffin or the ash, the refund amount shall be reduced by 2 %.

When completing customs formalities, the applicant shall state that the cheese is packed in paraffin or in ash, and whether the declared net weight includes the weight of the ash or the paraffin.

(e) Where the cheese is presented in wax, when completing customs formalities, the applicant must state on the declaration the net weight of the cheese not incorporating the weight of the wax.

(<sup>11</sup>) Where, for products falling within this code, the milk-protein content (nitrogen content × 6,38) in non-fat milk solids is less than 34 %, no refund is payable. Where, for powdered products falling within this code, the water content in product weight is more than 5 %, no refund is payable.

When completing the customs formalities, the interested party must indicate on the relevant declaration the minimum milk-protein content in non-fat milk solids and, for powdered products, the maximum water content.

(<sup>12</sup>) Deleted by Commission Regulation (EC) No 2287/2000 (OJ L 260, 14.10.2000, p. 22).

(<sup>13</sup>) (a) Where the product contains non-lactic ingredients, other than spices or herbs, such as in particular ham, nuts, shrimps, salmon, olives, raisins, the refund amount shall be reduced by 10 %.

When completing customs formalities, the applicant shall state on the declaration provided for that purpose that there is addition of such non-lactic ingredients.

(b) Where the product contains herbs or spices, such as in particular mustard, basil, garlic, oregano, the refund amount shall be reduced by 1 %.

When completing customs formalities, the applicant shall state on the declaration provided for that purpose that there is addition of herbs or spices.

(c) Where the product contains casein and/or caseinates and/or whey and/or products derived from whey and/or lactose and/or permeate and/or products covered by CN code 3504, the added casein and/or caseinates and/or whey and/or products derived from whey (excluding whey butter covered by CN code 0405 10 50) and/or lactose and/or permeate and/or products covered by CN code 3504 will not be taken into account for the purpose of calculating the refund.

When completing customs formalities, the applicant shall state on the declaration provided for that purpose whether or not casein and/or caseinates and/or whey and/or products derived from whey and/or lactose and/or permeate and/or products covered by CN code 3504 have been added and, where this is the case, the maximum content by weight of casein and/or caseinates and/or whey and/or products derived from whey (specifying where applicable the whey butter content) and/or lactose and/or permeate and/or products covered by CN code 3504 added per 100 kilograms of finished product.

(d) The products referred to may contain quantities of added non-lactic matter required for their manufacture or preservation, such as salt, rennet or mould.

(<sup>14</sup>) The refund on frozen condensed milk is the same as that on products falling within headings 0402 91 and 0402 99.

(<sup>15</sup>) The refunds on frozen products covered by CN codes 0403 90 11 to 0403 90 39 are the same as those on products covered by CN codes 0403 90 51 to 0403 90 69 respectively.

(<sup>16</sup>) The products referred to may contain small quantities of added non-lactic matter required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund. When completing customs formalities, the applicant must state on the declaration provided for that purpose whether or not non-lactic matter has been added and, where this is the case, the maximum content by weight of the non-lactic matter added per 100 kilograms of finished product.

(<sup>17</sup>) The refund per 100 kilograms of product falling within this subheading is equal to the sum of the following components:

(a) the amount per 100 kilogram shown, multiplied by the percentage of the lactic matter contained in 100 kilograms of product. The products referred to may contain small quantities of added non-lactic matter required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund;

(b) a component calculated in accordance with Article 14 (3) of Commission Regulation (EC) No 1187/2009 (OJ L 318, 4.12.2009, p. 1).

When completing customs formalities, the applicant must state on the declaration provided for that purpose the maximum content by weight of sucrose and whether or not non-lactic matter has been added and, where this is the case, the maximum content by weight of non-lactic matter added per 100 kilograms of finished product.

(<sup>18</sup>) The products referred to may contain small amounts of additives required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund. When completing customs formalities, the applicant must state on the declaration provided for that purpose whether or not products have been added and, where this is the case, the maximum additive content.

## 10. White and raw sugar without further processing

CN code	Description of goods	Product code
ex 1701	Cane or beet sugar and chemically pure sucrose, in solid form:	
	– Raw sugar not containing added flavouring or colouring matter:	
ex 1701 11	– – Cane sugar:	
ex 1701 11 90	– – – Other:	
	– – – – Candy sugar	1701 11 90 9100
	– – – – Other raw sugar:	
	– – – – – In immediate packings not exceeding 5 kg net of product	1701 11 90 9910
ex 1701 12	– – Beet sugar:	
ex 1701 12 90	– – – Other:	
	– – – – Candy sugar	1701 12 90 9100
	– – – – Other raw sugar:	
	– – – – – In immediate packings not exceeding 5 kg net of product	1701 12 90 9910
	– Other:	
1701 91 00	– – Containing added flavouring or colouring matter	1701 91 00 9000
ex 1701 99	– – Other:	
1701 99 10	– – – White sugar:	
	– – – – Candy sugar	1701 99 10 9100
	– – – – Other:	
	– – – – – Of a total quantity not exceeding 10 tonnes	1701 99 10 9910
	– – – – – Other	1701 99 10 9950
ex 1701 99 90	– – – Other:	
	– – – – Containing added substances other than flavouring or colouring matter	1701 99 90 9100

## 11. Syrups and other sugar products

CN code	Description of goods	Product code
ex 1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:	
ex 1702 40	– Glucose and glucose syrup, containing in the dry state at least 20 % but less than 50 % by weight of fructose, excluding invert sugar:	
ex 1702 40 10	– – Isoglucose: – – – Containing in the dry state 41 % or more by weight of fructose	1702 40 10 9100
1702 60	– Other fructose and fructose syrup, containing in the dry state more than 50 % by weight of fructose, excluding invert sugar:	
1702 60 10	– – Isoglucose	1702 60 10 9000
1702 60 95	– – Other	1702 60 95 9000
ex 1702 90	– Other, including invert sugar and other sugar and sugar syrup blends containing in the dry state 50 % by weight of fructose:	
1702 90 30	– – Isoglucose – – Caramel: – – – Containing 50 % or more by weight of sucrose in the dry matter	1702 90 30 9000 1702 90 71 9000
ex 1702 90 95	– – Other: – – – Artificial honey, whether or not mixed with natural honey – – – Other excluding sorbose	1702 90 95 9100 1702 90 95 9900
2106	Food preparations not elsewhere specified or included:	
ex 2106 90	– Other: – – Flavoured or coloured sugar syrups:	
2106 90 30	– – – Isoglucose syrups – – – Other: – – – – Other	2106 90 30 9000 2106 90 59 9000'

## ANNEX II

## 'ANNEX II

**DESTINATION CODES FOR EXPORT REFUNDS**

- A00 All destinations (third countries, other territories, victualling and destinations treated as exports from the Community).
- A01 Other destinations.
- A02 All destinations except for the United States of America.
- A03 All destinations except for Switzerland.
- A04 All third countries.
- A05 Other third countries.
- A10 EFTA countries (European Free Trade Association)**  
Iceland, Norway, Liechtenstein, Switzerland.
- A11 ACP States (African, Caribbean and Pacific States party to the Lomé Convention)**  
Angola, Antigua and Barbuda, Bahamas, Barbados, Belize, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Comoros (except for Mayotte), Congo, Democratic Republic of the Congo, Côte d'Ivoire, Djibouti, Dominica, Ethiopia, Fiji Islands, Gabon, Gambia, Ghana, Grenada, Guinea, Guinea-Bissau, Equatorial Guinea, Guyana, Haiti, Jamaica, Kenya, Kiribati, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Mauritania, Mozambique, Namibia, Niger, Nigeria, Uganda, Papua New Guinea, Dominican Republic, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saint Lucia, Solomon Islands, Samoa, São Tomé and Príncipe, Senegal, Seychelles, Sierra Leone, Somalia, Sudan, Suriname, Swaziland, Tanzania, Chad, Togo, Tonga, Trinidad and Tobago, Tuvalu, Vanuatu, Zambia, Zimbabwe.
- A12 Countries or territories of the Mediterranean Basin**  
Ceuta and Melilla, Gibraltar, Turkey, Albania, Croatia, Bosnia and Herzegovina, Serbia as well as Kosovo under UNSC Resolution 1244/99, Montenegro, Former Yugoslav Republic of Macedonia, Morocco, Algeria, Tunisia, Libya, Egypt, Lebanon, Syria, Israel, West Bank and Gaza Strip, Jordan.
- A13 OPEC States (Organisation of Petroleum Exporting Countries)**  
Algeria, Libya, Nigeria, Gabon, Venezuela, Iraq, Iran, Saudi Arabia, Kuwait, Qatar, United Arab Emirates, Indonesia.
- A14 ASEAN countries (Association of South-East Asian Nations)**  
Myanmar, Thailand, Laos, Vietnam, Indonesia, Malaysia, Brunei, Singapore, Philippines.
- A15 Countries of Latin America**  
Mexico, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Haiti, Dominican Republic, Colombia, Venezuela, Ecuador, Peru, Brazil, Chile, Bolivia, Paraguay, Uruguay, Argentina.
- A16 SAARC countries (South Asian Association for Regional Cooperation)**  
Pakistan, India, Bangladesh, Maldives, Sri Lanka, Nepal, Bhutan.
- A17 Countries of the EEA (European Economic Area) other than the European Union**  
Iceland, Norway, Liechtenstein.
- A18 CEEC countries or territories (Central and eastern European Countries or territories)**  
Albania, Croatia, Bosnia and Herzegovina, Serbia as well as Kosovo under UNSC Resolution 1244/99, Montenegro, Former Yugoslav Republic of Macedonia.
- A19 NAFTA countries (North-American Free Trade Agreement)**  
United States of America, Canada, Mexico.

- A20 **Mercosur countries (Southern Cone Common Market)**  
Brazil, Paraguay, Uruguay, Argentina.
- A21 **Newly industrialised countries of Asia**  
Singapore, South Korea, Taiwan, Hong Kong.
- A22 **Dynamic Asian economies**  
Thailand, Malaysia, Singapore, South Korea, Taiwan, Hong Kong.
- A23 **APEC countries (Asia-Pacific economic cooperation)**  
United States of America, Canada, Mexico, Chile, Thailand, Indonesia, Malaysia, Brunei, Singapore, Philippines, China, South Korea, Japan, Taiwan, Hong Kong, Australia, Papua New Guinea, New Zealand.
- A24 **Commonwealth of Independent States**  
Ukraine, Belarus, Moldova, Russia, Georgia, Armenia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan.
- A25 **Non-EU OECD countries (Organisation for Economic Cooperation and Development)**  
Iceland, Norway, Switzerland, Turkey, United States of America, Canada, Mexico, South Korea, Japan, Australia, Australian Pacific Territories, New Zealand, New Zealand Pacific Territories.
- A26 **European countries or territories outside the European Union**  
Iceland, Norway, Liechtenstein, Switzerland, Faeroe Islands, Andorra, Gibraltar, Vatican City, Turkey, Albania, Ukraine, Belarus, Moldova, Russia, Croatia, Bosnia and Herzegovina, Serbia as well as Kosovo under UNSC Resolution 1244/99, Montenegro, Former Yugoslav Republic of Macedonia.
- A27 **Africa (A28) (A29)**  
Countries or territories of North Africa, other countries of Africa.
- A28 **Countries or territories of North Africa**  
Ceuta and Melilla, Morocco, Algeria, Tunisia, Libya, Egypt.
- A29 **Other countries of Africa**  
Sudan, Mauritania, Mali, Burkina Faso, Niger, Chad, Cape Verde, Senegal, Gambia, Guinea-Bissau, Guinea, Sierra Leone, Liberia, Côte d'Ivoire, Ghana, Togo, Benin, Nigeria, Cameroon, Central African Republic, Equatorial Guinea, São Tomé and Príncipe, Gabon, Congo, Democratic Republic of the Congo, Rwanda, Burundi, Saint Helena and Dependencies, Angola, Ethiopia, Eritrea, Djibouti, Somalia, Kenya, Uganda, Tanzania, Seychelles and Dependencies, British Indian Ocean Territory, Mozambique, Madagascar, Mauritius, Comoros, Mayotte, Zambia, Zimbabwe, Malawi, South Africa, Namibia, Botswana, Swaziland, Lesotho.
- A30 **America (A31) (A32) (A33)**  
North America, Central America and the Antilles, South America.
- A31 **North America**  
United States of America, Canada, Greenland, Saint Pierre and Miquelon.
- A32 **Central America and the Antilles**  
Mexico, Bermuda, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, Anguilla, Cuba, Saint Kitts and Nevis, Haiti, The Bahamas, Turks and Caicos Islands, Dominican Republic, US Virgin Islands, Antigua and Barbuda, Dominica, Cayman Islands, Jamaica, Saint Lucia, Saint Vincent, British Virgin Islands, Barbados, Montserrat, Trinidad and Tobago, Grenada, Aruba, Netherlands Antilles.
- A33 **South America**  
Colombia, Venezuela, Guyana, Suriname, Ecuador, Peru, Brazil, Chile, Bolivia, Paraguay, Uruguay, Argentina, Falkland Islands.
- A34 **Asia (A35) (A36)**  
Near and Middle East, other countries of Asia.

**A35 Near and Middle East**

Georgia, Armenia, Azerbaijan, Lebanon, Syria, Iraq, Iran, Israel, West Bank and Gaza Strip, Jordan, Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Yemen.

**A36 Other countries of Asia**

Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan, Afghanistan, Pakistan, India, Bangladesh, Maldives, Sri Lanka, Nepal, Bhutan, Myanmar, Thailand, Laos, Vietnam, Cambodia, Indonesia, Malaysia, Brunei, Singapore, Philippines, Mongolia, China, North Korea, South Korea, Japan, Taiwan, Hong Kong, Macao.

**A37 Oceania and the polar regions (A38) (A39)**

Australia and New Zealand, other countries of Oceania and the polar regions.

**A38 Australia and New Zealand**

Australia, Australian Pacific Territories, New Zealand, New Zealand Pacific Territories.

**A39 Other countries of Oceania and the polar regions**

Papua New Guinea, Nauru, Solomon Islands, Tuvalu, New Caledonia and Dependencies, American Pacific Territories, Wallis and Futuna, Kiribati, Pitcairn, Fiji, Vanuatu, Tonga, Samoa, Northern Marianas, French Polynesia, Federated States of Micronesia (Yap, Kosrae, Chunk, Pohnpei), Marshall Islands, Palau, Polar Regions.

**A40 Overseas countries or territories (OCTs)**

French Polynesia, New Caledonia and Dependencies, Wallis and Futuna, French Southern and Antarctic Lands, Saint Pierre and Miquelon, Mayotte, Netherlands Antilles, Aruba, Greenland, Anguilla, Cayman Islands, Falkland Islands, South Sandwich Islands and Dependencies, Turks and Caicos Islands, British Virgin Islands, Montserrat, Pitcairn, Saint Helena and Dependencies, British Antarctic Territories, British Indian Ocean Territory.

**A96 Communes of Livigno and Campione d'Italia, Heligoland.****A97 Victualling and destinations treated as exports from the Community**

Destinations referred to in Articles 33, 41, and 42 of Regulation (EC) No 612/2009 (OJ L 186, 17.7.2009, p. 1).'

**COMMISSION REGULATION (EU) No 1261/2010****of 22 December 2010****imposing a provisional countervailing duty on imports of certain stainless steel bars originating in India**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community<sup>(1)</sup> (the basic Regulation), and in particular Article 12 thereof,

After consulting the Advisory Committee,

Whereas:

## 1. PROCEDURE

### 1.1. Initiation

- (1) On 1 April 2010, the Commission announced, by a notice published in the *Official Journal of the European Union*<sup>(2)</sup> (notice of initiation), the initiation of an anti-subsidy proceeding (AS proceeding) with regard to imports into the Union of certain stainless steel bars originating in India ('India' or 'the country concerned').
- (2) On the same day, the Commission announced by a notice published in the *Official Journal of the European Union*<sup>(3)</sup> (notice of initiation), the initiation of an anti-dumping proceeding with regard to imports into the Union of certain stainless steel bars originating in India and commenced a separate investigation (AD proceeding).
- (3) The AS proceeding was initiated following a complaint lodged on 15 February 2010 by the European Federation of Iron and Steel Industries (Eurofer) (the complainant) on behalf of producers representing a major proportion, in this case more than 25 % of total Union production of certain stainless steel bars. The complaint contained *prima facie* evidence of subsidisation of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an investigation.
- (4) Prior to the initiation of the proceeding and in accordance with Article 10(7) of the basic Regulation, the Commission notified the Government of India (the 'GOI') that it had received a properly documented

complaint alleging that subsidised imports of certain stainless steel bars originating in India were causing material injury to the Union industry. The GOI was invited for consultations with the aim of clarifying the situation as regards the contents of the complaint and arriving at a mutually agreed solution. In this case, no mutually agreed solution was found.

### 1.2. Parties concerned by the proceeding

- (5) The Commission officially advised the complainant Union producers, other known Union producers, the exporting producers, importers, users known to be concerned, and the Indian authorities of the initiation of the proceeding. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

- (6) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

#### 1.2.1. Sampling for exporting producers in India

- (7) In view of the large number of exporting producers in India, sampling was envisaged in the notice of initiation for the determination of subsidization in accordance with Article 27 of the basic Regulation.

- (8) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers in India were requested to make themselves known within 15 days from the date of the initiation of the investigation and to provide basic information on their export and domestic sales, their precise activities with regard to the production of the product concerned and the names and activities of all their related companies involved in the production and/or selling of the product concerned during the period from 1 April 2009 to 31 March 2010.

- (9) The relevant Indian authorities were also consulted for the selection of a representative sample.

- (10) In total, 22 exporting producers, including groups of related companies in India, provided the requested information and agreed to be included in the sample within the deadline set in the notice of initiation. 20 of these cooperating companies or groups reported exports of the product concerned to the Union during the investigation period. Thus, the sample was chosen on the basis of the information submitted by these 20 exporting producers or groups of exporting producers.

<sup>(1)</sup> OJ L 188, 18.7.2009, p. 93.

<sup>(2)</sup> OJ C 87, 1.4.2010, p. 17.

<sup>(3)</sup> OJ C 87 A, 1.4.2010, p. 1.

- (11) Any exporting producers which did not make themselves known within the aforesaid deadline or did not provide the requested information in due time, were considered as non-cooperating with the investigation. The comparison between Eurostat import data and the volume of exports to the Union of the product concerned reported for the investigation period by the 20 cooperating companies or groups with exports of the product concerned to the Union during the investigation period suggests that the cooperation of Indian exporting producers was very high.

*1.2.2. Selection of the sample of cooperating companies in India*

- (12) In accordance with Article 27 of the basic Regulation, the Commission selected a sample based on the largest representative volume of exports of the product concerned to the Union which could reasonably be investigated within the time available. The sample selected consisted of two individual companies and one group of companies consisting of four related companies, together representing more than 63 % of the total volume of exports to the Union of the product concerned.

*1.2.3. Individual examination of companies not selected in the sample*

- (13) One exporting producer which was not included in the sample because it did not meet the criteria set in Article 27(1) of the basic Regulation requested that an individual margin of subsidisation be established pursuant to Article 27(3) of the basic Regulation and provided a reply to the questionnaire.

- (14) As mentioned in recital 12 the sample was limited to a reasonable number of companies which could be investigated within the time available. The companies investigated for the purpose of the investigation of subsidisation are listed in recital 22 below. In view of the number of verification visits to be carried out at the premises of these companies, it was considered that the individual examination would be unduly burdensome and would have prevented the timely completion of the investigation.

- (15) Therefore, it was provisionally concluded that the request for an individual examination could not be accepted.

*1.2.4. Sampling of Union producers*

- (16) In view of the large number of Union producers, sampling was envisaged in the notice of initiation for the determination of injury in accordance with Article 27 of the basic Regulation.

- (17) No other producers than the eight complainants made themselves known and provided, as specified in the notice of initiation, basic information on their activities related to the product concerned during the investigation

period. Out of these eight, a sample of four companies was selected on basis of the representativeness of their sales volume, their various product types and their location in the Union. The complainant and the producers concerned were consulted on the selection of the sample.

- (18) The four sampled Union producers accounted for 62 % of the total production of the Union industry during the investigation period.

*1.2.5. Sampling of importers*

- (19) In view of the large number of importers identified in the complaint, sampling was envisaged for importers in the notice of initiation in accordance with Article 27 of the basic Regulation. Four importers provided the requested information and agreed to be included in the sample within the deadline set in the notice of initiation. Given the low number of importers who made themselves known, it was decided not to apply sampling.

- (20) The Commission sent questionnaires to all parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notice of initiation. Questionnaires were thus sent to the GOI, the sampled exporting producers in India, the sampled Union producers, to the four importers in the Union that came forward within the sampling exercise and to all users known to be concerned by the investigation.

- (21) Replies were received from the GOI, the sampled exporting producers, the exporting producer which requested individual examination, the sampled producers in the Union and from one importer. No questionnaire replies were received from users or from any other interested party in the proceeding. In addition, a major proportion of Union producers provided the requested general data for the injury analysis.

- (22) The Commission sought and verified all the information provided by interested parties and deemed necessary for a provisional determination of subsidisation, resulting injury and Union interest. Verification visits were carried out at the premises of GOI in Delhi, the Government of Maharashtra in Mumbai, the regional office of the GOI in Mumbai, and the following parties:

**Producers in the Union**

- Aceros Inoxidables Olarra SA, Spain and related sales companies,
- Rodacai SPA, Italy and related sales companies,
- Roldan SA, Spain and related sales companies,
- Ugitech France SA, France and related sales companies.

## Exporting producers in India

- Viraj Profiles Vpl. Ltd, Thane, Maharashtra,
- Chandan Steel Ltd, Mumbai, Maharashtra.
  
- Venus group:
- Venus Wire Industries Pvt. Ltd, Mumbai, Maharashtra,
- Precision Metals, Mumbai, Maharashtra,
- Hindustan Inox Ltd, Mumbai, Maharashtra,
- Sieves Manufacturer India Pvt. Ltd, Mumbai, Maharashtra.

### 1.3. Investigation period

- (23) The investigation of subsidisation and injury covered the period from 1 April 2009 to 31 March 2010 ('investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 2007 to the end of the investigation period (period considered).

## 2. PRODUCT CONCERNED AND LIKE PRODUCT

### 2.1. Product concerned

- (24) The product concerned is stainless steel bars and rods, not further worked than cold-formed or cold-finished, other than bars and rods of circular cross-section of a diameter of 80 mm or more, originating in India (the product concerned) currently falling within CN codes 7222 20 21, 7222 20 29, 7222 20 31, 7222 20 39, 7222 20 81 and 7222 20 89.

### 2.2. Like product

- (25) The investigation showed that the products produced and sold on the domestic market of India, which are covered by this investigation, have the same basic physical, chemical and technical characteristics and uses as those exported from this country to the Union market. Similarly, the products produced by the Union industry and sold on the Union market have the same basic physical, chemical and technical characteristics and uses when compared to those exported to the Union from the country concerned. They are therefore provisionally considered to be alike within the meaning of Article 2(c) of the basic Regulation.

## 3. SUBSIDISATION

### 3.1. Introduction

- (26) On the basis of the information contained in the complaint and the replies to the Commission's questionnaire, the following schemes, which allegedly involve the granting of subsidies, were investigated:

- (a) Duty Entitlement Passbook Scheme;
- (b) Advance Authorisation Scheme;
- (c) Export Promotion Capital Goods Scheme;
- (d) Export Oriented Units Scheme;
- (e) Export Credit Scheme.

- (27) The schemes (a) to (d) specified above are based on the Foreign Trade (Development and Regulation) Act 1992 (No 22 of 1992) which entered into force on 7 August 1992 ('Foreign Trade Act'). The Foreign Trade Act authorises the GOI to issue notifications regarding the export and import policy. These are summarised in 'Foreign Trade Policy' documents, which are issued by the Ministry of Commerce every 5 years and updated regularly. Two Foreign Trade Policy documents are relevant to the IP of this investigation, i.e. FT-policy 04-09 and FT-policy 09-14. – In addition, the GOI also sets out the procedures governing the FT-policy 04-09 and FT-policy 09-14 in a 'Handbook of Procedures, Volume I' ('HOP I 04-09' and 'HOP I 09-14' respectively). The Handbook of Procedures is also updated on a regular basis.

- (28) The Export Credit Scheme specified above under (e) is based on sections 21 and 35A of the Banking Regulation Act 1949, which allow the Reserve Bank of India (RBI) to direct commercial banks in the field of export credits.

### 3.2. Duty Entitlement Passbook Scheme (DEPBS)

#### (a) Legal Basis

- (29) The detailed description of the DEPBS is contained in chapter 4.3 of the FT-policy 04-09 and FT-policy 09-14 as well as in chapter 4 of the HOP I 04-09 and of the HOP I 09-14.

#### (b) Eligibility

- (30) Any manufacturer-exporter or merchant-exporter is eligible for this scheme.

#### (c) Practical implementation of the DEPBS

- (31) An exporter can apply for DEPBS credits which are calculated as a percentage of the value of products exported under this scheme. Such DEPBS rates have been established by the Indian authorities for most products, including the product concerned. They are determined on the basis of Standard Input Output Norms ('SIONs') taking into account a presumed import content of inputs in the export product and the customs duty incidence on such presumed imports, regardless of whether import duties have actually been paid or not.

- (32) To be eligible for benefits under this scheme, a company must export. At the time of the export transaction, a declaration must be made by the exporter to the Indian authorities indicating that the export is taking place under the DEPBS. In order for the goods to be exported, the Indian customs authorities issue an export shipping bill during the dispatch procedure. This document shows, *inter alia*, the amount of DEPBS credit which is to be granted for that export transaction. At this point in time, the exporter knows the benefit it will receive. Once the customs authorities issue an export shipping bill, the GOI has no discretion over the granting of a DEPBS credit.
- (33) It was found that in accordance with Indian accounting standards, DEPBS credits can be booked on an accrual basis as income in the commercial accounts, upon fulfilment of the export obligation. Such credits can be used for payment of customs duties on subsequent imports of any goods – except capital goods and goods where there are import restrictions. Goods imported against such credits can be sold on the domestic market (subject to sales tax) or used otherwise. DEPBS credits are freely transferable and valid for a period of 12 months from the date of issue.
- (34) Application for DEPBS credits are electronically filed and can cover an unlimited amount of export transactions. *De facto* no strict deadlines apply to DEPBS credits. The electronic system used to manage DEPBS does not automatically exclude export transactions exceeding the submission deadline mentioned in chapter 4.47 of the HOP I 04-09 and 09-14. Furthermore, as clearly provided in chapter 9.3 of the HOP I 04-09 and 09-14, applications received after the expiry of submission deadlines can always be considered subject to the imposition of a minor penalty fee (i.e. 10 % of the entitlement).
- (35) It was found that two of companies in the sample, Chandan Steel and the companies in the Venus group used this scheme during the IP.
- (d) *Conclusions on the DEPBS*
- (36) The DEPBS provides subsidies within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation. A DEPBS credit is a financial contribution by the GOI since the credit will eventually be used to offset import duties, thus decreasing the GOI's duty revenue which would otherwise be due. In addition, the DEPBS credit confers a benefit upon the exporter because it improves its liquidity.
- (37) Furthermore, the DEPBS is contingent in law upon export performance, and therefore deemed to be specific and countervailable under Article 4(4), first subparagraph, point (a) of the basic Regulation.
- (38) This scheme cannot be considered a permissible duty drawback system or substitution drawback system within the meaning of Article 3(1)(a)(ii) of the basic Regulation since it does not conform to the rules laid down in Annex I item (i), Annex II (definition and rules for drawback) and Annex III (definition and rules for substitution drawback) of the basic Regulation. In particular, an exporter is under no obligation to actually consume the goods imported free of duty in the production process and the amount of credit is not calculated in relation to actual inputs used. Moreover, there is no system or procedure in place to confirm which inputs are consumed in the production process of the exported product or whether an excess payment of import duties occurred within the meaning of item (i) of Annex I, and Annexes II and III of the basic Regulation. Lastly, an exporter is eligible for the DEPBS benefits regardless of whether it imports any inputs at all. In order to obtain the benefit, it is sufficient for an exporter to simply export goods without demonstrating that any input material was imported. Thus, even exporters which procure all of their inputs locally and do not import any goods which can be used as inputs are still entitled to benefit from the DEPBS.
- (e) *Calculation of the subsidy amount*
- (39) In accordance with Articles 3(2) and 5 of the basic Regulation, the amount of countervailable subsidies was calculated in terms of the benefit conferred on the recipient found to exist during the IP. In this regard, it was considered that the benefit is conferred on the recipient at the point in time when an export transaction is made under this scheme. At that moment, the GOI is liable to forego the customs duties, which constitutes a financial contribution within the meaning of Article 3(1)(a)(ii) of the basic Regulation. Once the customs authorities issue an export shipping bill which shows, *inter alia*, the amount of DEPBS credit which is to be granted for that export transaction, the GOI has no discretion as to whether or not to grant the subsidy. In the light of the above, it is considered appropriate to assess the benefit under the DEPBS as being the sums of the credits earned on export transactions made under this scheme during the IP.
- (40) Where justified claims were made, fees necessarily incurred to obtain the subsidy were deducted from the credits so established to arrive at the subsidy amount as numerator, pursuant to Article 7(1)(a) of the basic Regulation. In accordance with Article 7(2) of the basic Regulation this subsidy amount has been allocated over the

total export turnover during the IP as appropriate denominator, because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported.

- (41) The subsidy rate established in respect of this scheme for the companies concerned during the IP ranged from 1,5 % to 3,4 %.

### 3.3. Advance Authorisation Scheme (AAS)

#### (a) Legal basis

- (42) The detailed description of the scheme is contained in paragraphs 4.1.1 to 4.1.14 of the FT-policy 04-09 and FT-policy 2009-2014 and chapters 4.1 to 4.30 of the HOP I 2004-2009 and of the HOP I 2009-2014.

#### (b) Eligibility

- (43) The AAS consists of six sub-schemes, as described in more detail in recital (44) below. Those sub-schemes differ, inter alia, in the scope of eligibility. Manufacturer-exporters and merchant-exporters 'tied to' supporting manufacturers are eligible for the AAS physical exports and for the AAS for annual requirement sub-schemes. Manufacturer-exporters supplying the ultimate exporter are eligible for AAS for intermediate supplies. Main contractors which supply to the 'deemed export' categories mentioned in paragraph 8.2 of the FT-policy 2004-2009, such as suppliers of an export oriented unit ('EOU'), are eligible for the AAS deemed export sub-scheme. Eventually, intermediate suppliers to manufacturer-exporters are eligible for 'deemed export' benefits under the sub-schemes Advance Release Order ('ARO') and back to back inland letter of credit.

#### (c) Practical implementation

- (44) The AAS can be issued for:

(i) **Physical exports:** This is the main sub-scheme. It allows for duty-free import of input materials for the production of a specific resulting export product. 'Physical' in this context means that the export product has to leave Indian territory. An import allowance and export obligation including the type of export product are specified in the licence;

(ii) **Annual requirement:** Such an authorisation is not linked to a specific export product, but to a wider product group (e.g. chemical and allied

products). The licence holder can – up to a certain value threshold set by its past export performance – import duty-free any input to be used in manufacturing any of the items falling under such a product group. It can choose to export any resulting product falling under the product group using such duty-exempt material;

(iii) **Intermediate supplies:** This sub-scheme covers cases where two manufacturers intend to produce a single export product and divide the production process. The manufacturer-exporter who produces the intermediate product can import duty-free input materials and can obtain for this purpose an AAS for intermediate supplies. The ultimate exporter finalises the production and is obliged to export the finished product;

(iv) **Deemed exports:** This sub-scheme allows a main contractor to import inputs free of duty which are required in manufacturing goods to be sold as 'deemed exports' to the categories of customers mentioned in paragraph 8.2(b) to (f), (g), (i) and (j) of the FT-policy 04-09. According to the GOI, deemed exports refer to those transactions in which the goods supplied do not leave the country. A number of categories of supply is regarded as deemed exports provided the goods are manufactured in India, e.g. supply of goods to an export-oriented unit ('EOU') or to a company situated in a special economic zone ('SEZ');

(v) **Advance Release Order (ARO):** The AAS holder intending to source the inputs from indigenous sources, in lieu of direct import, has the option to source them against AROs. In such cases the Advance Authorisations are validated as AROs and are endorsed to the indigenous supplier upon delivery of the items specified therein. The endorsement of the ARO entitles the indigenous supplier to the benefits of deemed exports as set out in paragraph 8.3 of the FT-policy 04-09 (i.e. AAS for intermediate supplies/deemed export, deemed export drawback and refund of terminal excise duty). The ARO mechanism refunds taxes and duties to the supplier instead of refunding the same to the ultimate exporter in the form of drawback/refund of duties. The refund of taxes/duties is available both for indigenous inputs as well as imported inputs;

- (vi) Back to back inland letter of credit:  
This sub-scheme again covers indigenous supplies to an Advance Authorisation holder. The holder of an Advance Authorisation can approach a bank for opening an inland letter of credit in favour of an indigenous supplier. The authorisation will be validated by the bank for direct import only in respect of the value and volume of items being sourced indigenously instead of importation. The indigenous supplier will be entitled to deemed export benefits as set out in paragraph 8.3 of the HUF-policy 04-09 (i.e. AAS for intermediate supplies/deemed export, deemed export drawback and refund of terminal excise duty).
- (45) Two companies received concessions under the AAS linked to the product concerned during the IP. These companies made use of one of the sub-schemes, i.e. AAS physical exports. It is therefore not necessary to establish the countervailability of the remaining unused sub-schemes.
- (46) For verification purposes by the Indian authorities, an Advance Authorisation holder is legally obliged to maintain 'a true and proper account of consumption and utilisation of duty-free imported/domestically procured goods' in a specified format (chapters 4.26, 4.30 and Appendix 23 HOP I 04-09 and HOP I 09-14), i.e. an actual consumption register. This register has to be verified by an external chartered accountant/cost and works accountant who issues a certificate stating that the prescribed registers and relevant records have been examined and the information furnished under Appendix 23 is true and correct in all respects.
- (47) With regard to the sub-scheme used during the IP by the companies concerned, i.e. physical exports, the import allowance and the export obligation are fixed in volume and value by the GOI and are documented on the Authorisation. In addition, at the time of import and of export, the corresponding transactions are to be documented by Government officials on the Authorisation. The volume of imports allowed under the AAS is determined by the GOI on the basis of Standard Input Output Norms (SIONs) which exist for most products including the product concerned.
- (48) Imported input materials are not transferable and have to be used to produce the resultant export product. The export obligation must be fulfilled within a prescribed time frame after issuance of the licence (24 months with two possible extensions of 6 months each).
- (49) The investigation established that the verification requirements stipulated by the Indian authorities were either not honoured or not yet tested in practice.
- (50) One of the companies investigated did not maintain a system whereby it could be verified which inputs were consumed in the production of the exported product and in what amounts, as stipulated by the FT-policy (Appendix 23) and in accordance with Annex II(II)(4) of the basic Regulation. In fact, there were no records of actual consumption. Changes in the administration of the FT-policy 2004 to 2009, which became effective in autumn of 2005 (mandatory sending of the consumption register to the Indian authorities in the context of the redemption procedure) has not yet been applied in the case of this company. Thus, the de facto implementation of this provision could not be verified at this stage.
- (51) As regarding the other company, it did maintain a certain production and consumption register. However, the consumption register for the IP was not available, and consequently it was not possible to verify, inter alia, the consumption records in order to establish which inputs were consumed in the production of the exported product and in what amounts, as stipulated by the FT-policy (Appendix 23). Regarding the verification requirements referred to in recital 46 above, there were no records kept by the company on how this certification took place. There was no audit plan or any other supporting material of the audit performed (e.g. a report of the auditing), no recorded information on the methodology used and the specific requirements needed for such scrupulous work that required detailed technical knowledge on production processes. In sum, it is considered that the investigated exporter was not able to demonstrate that the relevant FT-policy provisions were met.
- (d) Conclusion on the AAS
- (52) The exemption from import duties is a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation, namely it constitutes a financial contribution of the GOI which conferred a benefit upon the investigated exporters.
- (53) In addition, AAS physical exports are clearly contingent in law upon export performance, and therefore deemed to be specific and countervailable under Article 4(4), first subparagraph, point (a) of the basic Regulation. Without an export commitment a company cannot obtain benefits under these schemes.

(54) The sub-scheme used in the present case cannot be considered permissible duty drawback system or substitution drawback system within the meaning of Article 3(1)(a)(ii) of the basic Regulation. It does not conform to the rules laid down in Annex I item (i), Annex II (definition and rules for drawback) and Annex III (definition and rules for substitution drawback) of the basic Regulation. The GOI did not effectively apply a verification system or a procedure to confirm whether and in what amounts inputs were consumed in the production of the exported product (Annex II(II)(4) of the basic Regulation and, in the case of substitution drawback schemes, Annex III(II)(2) of the basic Regulation). It is also considered that the SIONs for the product concerned were not sufficiently precise and that themselves cannot constitute a verification system of actual consumption because the design of those standard norms does not enable the GOI to verify with sufficient precision what amounts of inputs were consumed in the export production. In addition, the GOI did not carry out a further examination based on actual inputs involved, although this would normally need to be carried out in the absence of an effectively applied verification system (Annex II(II)(5) and Annex III(II)(3) to the basic Regulation).

(55) The sub-scheme is therefore countervailable.

*(e) Calculation of the subsidy amount*

(56) In the absence of permitted duty drawback systems or substitution drawback systems, the countervailable benefit is the remission of total import duties normally due upon importation of inputs. In this respect, it is noted that the basic Regulation does not only provide for the countervailing of an 'excess' remission of duties. According to Article 3(1)(a)(ii) and Annex I(i) of the basic Regulation only when the conditions of Annexes II and III of the basic Regulation are met that the excess remission of duties can be countervailed. However, these conditions were not fulfilled in the present case. Thus, if an adequate monitoring process is not demonstrated, the above exception for drawback schemes is not applicable and the normal rule of the countervailing of the amount of unpaid duties (revenue forgone), applies, rather than of any purported excess remission. As set out in Annexes II(II) and III(II) of the basic Regulation the burden is not upon the investigating authority to calculate such excess remission. To the contrary, according to Article 3(1)(a)(ii) of the basic Regulation, the investigating authority only has to establish sufficient evidence to refute the appropriateness of an alleged verification system.

(57) The subsidy amount for the companies which used the AAS was calculated on the basis of import duties forgone (basic customs duty and special additional customs duty) on the material imported under the sub-scheme during the IP (numerator). In accordance with Article 7(1)(a) of

the basic Regulation, fees necessarily incurred to obtain the subsidy were deducted from the subsidy amount where justified claims were made. In accordance with Article 7(2) of the basic Regulation, this subsidy amount was allocated over the export turnover of the product concerned during the IP as appropriate denominator because the subsidy is contingent upon export performance and was not granted by reference to the quantities manufactured, produced, exported or transported.

(58) The subsidy rate established in respect of this scheme for the concerned companies for the IP amounts to 0,8 % and 1,5 % respectively.

#### 3.4. Export Promotion Capital Goods Scheme (EPCGS)

(59) The investigation revealed that two of the companies or groups of companies in the sample used this scheme during the IP. However, it was found that the incentives received were negligible. Therefore, it was considerate that it was not necessary to further evaluate the counter-viability of this scheme in this investigation.

#### 3.5. Export Oriented Units Scheme (EOUS)

(60) It was found that one of the companies in the sample had the status of an EOU and received subsidies in the IP.

*(a) Legal basis*

(61) The details of the EOU scheme are contained in chapter 6 of the FT-policy 04-09 and FT-policy 09-14 as well as in chapter 6 of the HOP I 04-09 and of the HOP I 09-14.

*(b) Eligibility*

(62) With the exception of pure trading companies, all enterprises which, in principle, undertake to export their entire production of goods or services may be set up under the EOUS. Undertakings in the industrial sectors have to fulfil a minimum investment threshold in fixed assets to be eligible for the EOUS.

*(c) Practical implementation*

(63) Export oriented units can be located and established anywhere in India.

- (64) An application for EOU status must include details for a period of the next 5 years on, inter alia, planned production quantities, projected value of exports, import requirements and indigenous requirements. Upon acceptance by the authorities of the company's application, the terms and conditions attached to this acceptance will be communicated to the company. The agreement to be recognised as a company under EOUS is valid for a five-year period. The agreement may be renewed for further periods.
- (65) A crucial obligation of an EOU as set out in the FT-policy 2004-2009 and FT-policy 2009-2014 is to achieve net foreign exchange (NFE) earnings, that is in a reference period (5 years) the total value of exports has to be higher than the total value of imported goods.
- (66) Export oriented units are entitled to the following concessions:
- (i) exemption from import duties on all types of goods (including capital goods, raw materials and consumables) required for the manufacture, production, processing, or in connection therewith;
  - (ii) exemption from excise duty on goods procured from indigenous sources;
  - (iii) reimbursement of central sales tax paid on goods procured locally;
  - (iv) the facility to sell part of production on the domestic market of up to 50 % of FOB value of exports, subject to fulfilment of positive NFE earnings upon payment of concessional duties, namely excise duties on finished products;
  - (v) partial reimbursement of duty paid on fuel procured from domestic oil companies;
  - (vi) exemption from income tax normally due on profits realised on export sales in accordance with Section 10B of the Income Tax Act for a 10-year period after starting its operations.
- (67) Units operating under these schemes are bonded under the surveillance of customs officials.
- (68) They are legally obliged to maintain a proper account of all imports, of the consumption and utilisation of all imported materials and of the exports made in accordance with the relevant paragraph of HOP I 2009-2014. These documents should be submitted periodically to the competent authorities in India through quarterly and annual progress reports.
- (69) However, 'at no point in time [an EOU] shall be required to co-relate every import consignment with its exports, transfers to other units, sales in DTA or stocks', as the relevant section of the HOP I 2009-2014 states.
- (70) Domestic sales are dispatched and recorded on a self-certification basis. The dispatch process of export consignments of an EOU is supervised by a customs/excise official.
- (71) In the present case, the EOUS was used by one of the cooperating exporters in the sample. This cooperating exporter utilised the scheme to import raw materials, consumables and capital goods free of import duties, to procure goods domestically free of excise duty and to obtain sales tax reimbursement, and to sell part of its production on the domestic market. The cooperating exporter thereby availed of all benefits as described in recital 66 above under (i) to (vi). However, as regards income tax exemption pursuant to Section 10B of the Income Tax Act, the investigation revealed that, as from 1 April 2010, the company would no longer be eligible for this exemption. Consequently, the income tax exemption provisions of the EOU were not further considered in the context of this investigation.
- (d) *Conclusions on the EOUS*
- (72) The exemptions of an EOU from three types of import duties ('basic customs duty', 'education cess on customs duty' and 'higher secondary education cess') and the reimbursement of sales tax are financial contributions of the GOI within the meaning of Article 3(1)(a)(ii) of the basic Regulation. Government revenue which would be due in the absence of this scheme is forgone, thus, conferring a benefit upon the EOU in the meaning of Article 3(2) of the basic Regulation because it improved liquidity by not having to pay duties normally due and by obtaining a sales tax reimbursement.
- (73) The exemption from excise duty and its import duty equivalent ('EED'), however, do not lead to revenue forgone which is otherwise due. Excise and additional customs duty, if paid, could be used as a credit for its own future duty liabilities (the so-called 'CENVAT mechanism') which is a system comparable to VAT and which allows Indian companies to offset taxes on purchases with taxes payable on sales. Therefore, these duties are not definitive. By the means of 'CENVAT'-credit only an added value bears a definitive duty, not the input materials.
- (74) Thus, only the exemption from basic customs duty, education cess on customs duty, higher secondary

education cess and the central sales tax reimbursement, constitute subsidies within the meaning of Article 3 of the basic Regulation. They are contingent in law upon export performance, and therefore deemed to be specific and countervailable under Article 4(4), first subparagraph, point (a) of the basic Regulation. The export objective of an EOU as set out in chapter 6.1 of the FT-policy 2009-2014 is a *conditio sine qua non* to obtain the incentives.

(e) *Calculation of the subsidy amount*

- (75) Accordingly, the countervailable benefit is the remission of import duties basic customs duty, education cess on customs duty, higher secondary education cess normally due upon importation as well as the reimbursement of central sales tax, during the IP.

(i) Exemption from import duties (basic customs duty, education cess on customs duty, higher secondary education cess), reimbursement of central sales tax on raw materials and consumables

- (76) The subsidy amount for the exporter that are export oriented units was calculated on the basis of import duties forgone (basic customs duty, education cess on customs duty, higher secondary education cess) on the materials imported for the EOU as a whole and the sales tax reimbursed during the IP. Fees necessarily incurred to obtain the subsidy were deducted in accordance with Article 7(1)(a) of the basic Regulation from this sum to arrive at the subsidy amount as numerator. In accordance with Article 7(2) of the basic Regulation this subsidy amount has been allocated over the appropriate export turnover generated during the IP as appropriate denominator because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported. The subsidy margin obtained under the EOUS for the company concerned amounts to 4,3 %.

(ii) Exemption from import duties (basic customs duty, education cess on customs duty, higher secondary education cess) on capital goods

- (77) Capital goods are not physically incorporated into the finished goods. In accordance with Article 7(3) of the basic Regulation, the benefit to the concerned company has been calculated on the basis of the amount of unpaid customs duty on imported capital goods spread across a period which reflects the normal depreciation period of such capital goods in one of the investigated company.

The amount so calculated is then attributable to the IP and has been adjusted by adding interest during this period in order to reflect the value of the benefit over time and thereby establish the full benefit of this scheme to the recipient. In accordance with Articles 7(2) and 7(3) of the basic Regulation, this subsidy amount has been allocated over the appropriate export turnover generated during the IP as appropriate denominator because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported. The subsidy margin thus obtained for the company concerned was negligible.

### 3.6. Export Credit Scheme (ECS)

(a) *Legal basis*

- (78) The details of the scheme are set out in the Master Circular DBOD No. DIR.(Exp).BC 01/04.02.02/2007-08 (Rupee/Foreign Currency Export Credit) and Master Circular DBOD No. DIR.(Exp).BC 09/04.02.02/2008-09 (Rupee/Foreign Currency Export Credit) of the Reserve Bank of India (RBI), which is addressed to all commercial banks in India.

(b) *Eligibility*

- (79) Manufacturing exporters and merchant exporters are eligible for this scheme.

(c) *Practical implementation*

- (80) Under this scheme, the RBI sets maximum ceiling interest rates applicable to export credits which are mandatory, both in Indian rupees and in foreign currency, which commercial banks can charge an exporter. The ECS consists of two sub-schemes, the Pre-Shipment Export Credit Scheme (packing credit), which covers credits provided to an exporter for financing the purchase, processing, manufacturing, packing and/or shipping of goods prior to export, and the Post-Shipment Export Credit Scheme, which provides for working capital loans with the purpose of financing export receivables. The RBI also directs the banks to provide a certain amount of their net bank credit towards export finance.

- (81) As a result of the RBI Master Circulars exporters can obtain export credits at preferential interest rates as compared with the interest rates for ordinary commercial credits (cash credits), which are solely set under market conditions. The difference in rates might decrease for companies with good credit ratings. In fact, high rating companies might be in a position to obtain export credits and cash credits at the same conditions.

(82) It was found that the one of the companies used this scheme during the IP.

(d) *Conclusion on the ECS*

(83) The preferential interest rates of an ECS credit set by the RBI Master Circulars mentioned in recital 78 can decrease the interest costs of an exporter as compared with credit costs purely set by market conditions and confer in this case a benefit in the meaning of Article 3(2) of the basic Regulation on such an exporter. Export financing is not *per se* more secure than domestic financing. In fact, it is usually perceived as being more risky and the extent of security required for a certain credit, regardless of the finance object, is a purely commercial decision of a given commercial bank. Rate differences with regard to different banks are the result of the methodology of the RBI to set maximum lending rates for each commercial bank individually.

(84) Despite the fact that the preferential credits under the ECS are granted by commercial banks, this benefit is a financial contribution by a government within the meaning of Article 3(1)(a)(iv) of the basic Regulation. In this context, it should be noted that neither Article 3(1)(a)(iv) of the basic Regulation nor the Agreement on Subsidies and Countervailing Measures require a charge on the public accounts, e.g. reimbursement of the commercial banks by the GOI, to establish a subsidy, but only government direction to carry out functions illustrated in points (i), (ii) or (iii) of Article 3(1)(a) of the basic Regulation. The RBI is a public body and falls therefore under the definition of 'government' as set out in Article 2(b) of the basic Regulation. It is 100 % government-owned, pursues public policy objectives, e.g. monetary policy, and its management is appointed by the GOI. The RBI directs private bodies, within the meaning of the second indent of Article 3(1)(a)(iv) of the basic Regulation, since the commercial banks are bound by the conditions it imposes, *inter alia*, with regard to the maximum ceilings for interest rates on export credits mandated in the RBI Master Circulars and the RBI provisions that commercial banks have to provide a certain amount of their net bank credit towards export finance. This direction obliges commercial banks to carry out functions mentioned in Article 3(1)(a)(i) of the basic Regulation, in this case to provide loans in the form of preferential export financing. Such direct transfer of funds in the form of loans under certain conditions would normally be vested in the government, and the practice differs, in no real sense, from practices normally followed by governments, within the meaning of Article 3(1)(a)(iv) of the basic Regulation. This subsidy is deemed to be specific and countervailable since the preferential interest rates are only available in relation to the financing of export transactions and are therefore contingent upon export performance, pursuant to Article 4(4), first subparagraph, point (a) of the basic Regulation.

(e) *Calculation of the subsidy amount*

(85) The subsidy amount has been calculated on the basis of the difference between the interest paid for export credits

used during the IP and the amount that would have been payable for ordinary commercial credits used by the company concerned. This subsidy amount (numerator) has been allocated over the total export turnover during the IP as the appropriate denominator in accordance with Article 7(2) of the basic Regulation because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported.

(86) The subsidy rate established in respect of this scheme for the company for the IP amounts to 0,4 %.

### 3.7. Amount of countervailable subsidies

(87) Based on the findings, as summarised in the below table, the total amount of countervailable subsidies, expressed *ad valorem*, were found to range from 3,3 % to 4,3 %:

SCHEME→	DEPBS (*)	AAS (*)	EOU (*)	ECS (*)	Total
COMPANY					
Chandan Steel Ltd	1,5 %	1,5 %		0,4 %	<b>3,4 %</b>
Venus group	2,6 % to 3,4 %	0 to 0,8 %			<b>3,3 % (**)</b>
Viraj Profiles Vpl. Ltd			4,3 %		<b>4,3 %</b>

(\*) Subsidies marked with an asterisk are export subsidies.

(\*\*) Weighted average for the Group.

(88) In accordance with Article 15(3) of the basic Regulation, the subsidy margin for the cooperating companies not included in the sample, calculated on the basis of the weighted average subsidy margin established for the cooperating companies in the sample, is 4,0 %.

(89) With regard to all other exporters in India, the Commission first established the level of cooperation. As mentioned in recital 10 above, the comparison between Eurostat import data and the volume of exports to the Union of the product concerned reported for the investigation period by the cooperating companies or groups with exports of the product concerned to the Union during the investigation period shows that the cooperation of Indian exporting producers was very high, namely 100 %. Given this high level of cooperation, the subsidy rate for all non-cooperating companies is set at the level for the company with the highest individual rate, i.e. 4,3 %,

#### 4. UNION INDUSTRY

##### 4.1. Union production

(90) The output of the following Union producers was considered for establishing the volume of Union production:

— eight producers on whose behalf the complaint was lodged,

— four producers which supported the proceeding,

— twelve other Union producers listed in the complaint, which were neither complainants nor supporting the proceeding but did not oppose the present investigation.

(91) Consequently, the Union production consists of these 24 companies for the purpose of the injury analysis as a whole.

##### 4.2. Sampling of Union producers

(92) As mentioned above in recital 17, a sample of four companies was selected from those producers who made themselves known to the Commission and provided, as specified in the notice of initiation, basic information on their activities related to the product concerned during the investigation period.

(93) These four sampled Union producers accounted for 62 % of the total production of the Union industry during the IP.

#### 5. INJURY

##### 5.1. Preliminary remarks

(94) Injury has been assessed on the basis of trends concerning production, production capacity, capacity utilisation, sales, market share and growth collected at the level of the total Union industry and trends concerning prices, employment, productivity, profitability, cash flow, ability to raise capital and investments, stocks, return on investment and wages collected at the level of the sampled Union producers.

##### 5.2. Union consumption

(95) Union consumption was established on the basis of the sales volumes of the sampled Union industry, the sales data of the other Union producers as provided by the

complainant, the import volume data on the Union market obtained from Eurostat for the period 2007 to 2009 and the replies to the sampling questions for the IP.

	2007	2008	2009	IP
Union consumption in tonnes	315 143	285 548	186 198	202 019
Index (2007 = 100)	100	91	59	64

(96) During the period considered, consumption decreased by 36 %. From 2007 to 2009, the consumption decreased by 41 % but increased slightly by 5 percentage points between 2009 and the IP.

(97) The economic downturn has contributed to the decrease in consumption from 2008, during which users of the product concerned like the automotive industry, domestic appliances, chemical and building industries, experienced a serious drop in demand for their products. In the second half of the IP, the market situation started to improve slightly, resulting in a small increase in demand for the product concerned compared to the first half of the IP.

##### 5.3. Imports into the Union from the country concerned

###### 5.3.1. Volume and market share of the imports concerned

	2007	2008	2009	IP
Imports from India in tonnes	32 754	31 962	18 759	23 792
Index (2007 = 100)	100	98	57	73
Market share of imports	10,39 %	11,19 %	10,07 %	11,78 %
Index (2007 = 100)	100	108	97	113

(98) Based on Eurostat for the period 2007 to 2009 and the replies to the sampling questions for the IP, imports of the product concerned from India followed the downward trend of the EU consumption and decreased by 27 % during the period considered. The biggest decrease took place between 2008 and 2009 when imports dropped by 41 percentage points. Imports then increased by 16 percentage points between 2009 and the IP.

(99) Since this decrease is lower than the decrease in Union consumption, the market share of the Indian producers slightly increased from 10,39 % in 2007 to 11,78 % in the IP.

### 5.3.2. Prices of imports and price undercutting

	2007	2008	2009	IP
Average import price from India EUR/tonne	3 504	2 908	2 138	1 971
Index (2007 = 100)	100	83	61	56

- (100) The average import price of the product concerned from India decreased by 44 % with the biggest decrease occurring between 2008 and 2009 when prices fell by 22 percentage points. Although this decrease followed the downward trend of the raw material prices, it has to be noted that throughout the period considered, the average import price per unit from India was significantly

lower than the average per unit sales price of the Union industry, resulting in strong price pressure on the Union sales prices.

- (101) A comparison for the IP between the sampled Union industry's ex-works prices to unrelated customers on the Union market with the CIF Union frontier prices of exporting producers in India, duly adjusted for unloading and customs clearance costs, showed price undercutting ranging between 16,7 % and 18,2 %.

### 5.4. Economic situation of the Union industry

- (102) Pursuant to Article 8(4) of the basic Regulation, the examination of the impact of the subsidised imports from India on the Union industry included an analysis of all relevant economic factors having a bearing on the state of the industry from 2007 to the IP.

#### 5.4.1. Data relating to the Union industry as a whole

##### (a) Production, production capacity and capacity utilisation

	2007	2008	2009	IP
Production volume in tonnes	296 576	262 882	159 397	170 557
Index (2007 = 100)	100	89	54	58
Production capacity in tonnes	478 174	491 016	486 755	476 764
Index (2007 = 100)	100	103	102	100
Capacity utilisation	62 %	54 %	33 %	36 %
Index (2007 = 100)	100	86	53	58

- (103) Between 2007 and the IP the Union industry's overall production decreased by 42 % while the production capacity remained stable, causing the capacity utilisation rate to decrease by 26 percentage points. The decrease in production was greater than that of the Union consumption which decreased by 36 % over the period considered.

##### (b) Sales volume, market share

	2007	2008	2009	IP
EU sales in tonnes	255 300	230 344	154 602	164 191
Index (2007 = 100)	100	90	61	64
Market share (% of Union consumption)	81 %	81 %	83 %	81 %
Index (2007 = 100)	100	100	102	100

- (104) The Union industry's sales volume of the like product when sold to the first independent customer on the Union market decreased by 36 % over the period considered with the biggest decrease occurring between 2008 and 2009 when sales fell by 29 percentage points.

Sales then increased slightly by 3 percentage points between 2009 and the IP.

- (105) The Union industry's market share remained stable at a level of around 81 % over the period considered.

## (c) Growth

(106) Since both the Union consumption and the sales volume of the Union industry decreased by 36 % over the period considered, the market share of the Union industry remained stable at 81 %.

## (d) Magnitude of the actual subsidy margin

(107) Given the volume, market share and prices of the subsidised imports from India, the impact on the Union industry of the actual subsidy margins cannot be considered to be negligible.

## 5.4.2. Data relating to the sampled Union producers

## (a) Stocks

(108) The Union industry mainly produces on order, stocks can therefore not be considered as a meaningful injury indicator. The trends in stocks are given for information purposes. The figures below only refer to the sampled companies and represent the volume of stocks at the end of each period.

	2007	2008	2009	IP
Closing stock in tonnes	25 315	27 736	24 032	19 730
Index (2007 = 100)	100	110	95	78

(109) The volume of stocks decreased by 22 % during the period considered, but as a percentage of production, stocks increased from 16 % to 19,5 %.

## (b) Average unit selling prices on the Union market and cost of production

	2007	2008	2009	IP
Average sales price of the Union industry (EUR)	4 478	3 615	2 507	2 521
Index (2007 = 100)	100	81	56	56
Unit cost of production	4 003	3 408	2 900	2 773
Index (2007 = 100)	100	85	72	69

(110) The average unit prices of the sampled Union industry's sales to unrelated customers on the Union market decreased by 44 % between 2007 and the IP with the biggest decrease occurring between 2008 and 2009 when prices fell by 25 percentage points. Part of this decrease however, was due to the drop in the unit cost of production of the product concerned which decreased by 31 % over the period considered. The drop in unit costs was mainly caused by the decrease in raw material prices. This decrease was slightly modulated by the increase in the proportion of fixed costs per unit produced, due to the lower capacity utilisation.

## (c) Employment, productivity and labour costs

	2007	2008	2009	IP
Number of employees	1 044	1 007	947	885
Index	100	97	91	85
Productivity (tonnes/employee)	149	141	97	115
Index	100	94	65	77
Average labour costs per employee	47 686	48 062	47 131	49 972
Index	100	101	99	105

(111) The number of employees was reduced by 15 % over the period considered due to the downsizing of activities of the Union industry.

(112) As regards average labour costs per employee, they increased slightly by 5 % over the period considered. This is considered a natural increase and is less than the rate of inflation over the period considered. Furthermore, it should be noted that labour costs do not form a significant part of the total cost of production of stainless steel bars.

(d) Profitability, cash flow, investments, return on investments and ability to raise capital

	2007	2008	2009	IP
Profitability of EU sales (% of net sales)	9,5 %	3,5 %	- 12,8 %	- 7,9 %
Index	100	37	- 135	- 83
Cash flow (EUR)	44 464 193	13 280 433	- 12 678 708	- 3 063 190
Index	100	30	- 29	- 7
Investments (1 000 EUR)	18 085 847	15 714 829	4 341 909	4 198 607
Index (2007 = 100)	100	87	24	23
Return on investments	101 %	25 %	- 50 %	- 33 %
Index (2007 = 100)	100	25	- 49	- 32

(113) Profitability of the Union industry was established by expressing the pre-tax net profit of the sales of the like product as a percentage of the turnover of these sales. Over the period considered, the profitability dropped significantly and turned from a profit of more than 9 % in 2007 into a loss of almost 8 % in the IP. The biggest fall in profits was seen between 2008 and 2009, i.e. by more than 16 percentage points.

(114) The net cash flow generated by the like product decreased by 107 % from 2007 to the IP.

(115) The annual investment in the production of the like product decreased by 77 % in the period under consideration.

(116) The return on investment (ROI), expressed as the profit in percent of the net book value of investments, followed the negative trend of profitability, decreasing by 134 percentage points.

(117) There were no indications that the industry suffered a reduced ability to raise capital over the period considered.

### 5.5. Conclusion on injury

(118) During the period considered almost all injury indicators pertaining to the Union industry developed negatively.

(119) Union consumption decreased by 36 %, the Union industry's sales volume dropped by 36 % and the capacity utilisation decreased by 42 %. The unit sales prices of the sampled Union producers decreased by 44 % to a level below cost. They followed the decrease in price of the Indian imports in order to

maintain a certain volume of sales and production in order to cover the fixed costs.

(120) Profitability turned from a profit of 9,5 % in 2007 into a loss of almost 8 % in the IP. Investments, cash flow and return on investments followed the negative trend as well, decreasing by 77 %, 107 % and 246 percentage points respectively over the period considered.

(121) Only one indicator, i.e. the market share of the Union industry, remained stable at a level of 81 %.

(122) In the light of the foregoing, it is concluded that the Union industry has suffered material injury within the meaning of Article 8(5) of the basic Regulation.

## 6. CAUSATION

### 6.1. Introduction

(123) In accordance with Article 8(5) and Article 8(6) of the basic Regulation, the Commission examined whether the subsidised imports from India had caused injury to the Union industry to a degree sufficient to be considered as material. Known factors other than the subsidised imports, which could at the same time be injuring the Union industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the subsidised imports.

### 6.2. Effect of the subsidised imports

(124) The decrease in import prices of 44 % over the period considered, as well as the high margins of undercutting found during the IP, ranging from 16,7 % to 18,2 %, coincided with the deterioration of the economic situation of the Union industry.

(125) In view of the level of subsidisation of the cooperating exporters, the low price level of subsidised imports which significantly undercut the Union industry's prices, their presence on the Union market played a significant role in further exacerbating the negative trend on sales prices on the Union market. The material injury suffered by the Union industry is most clearly seen in the low level of sales prices and the dramatic level of financial losses incurred by the industry.

(126) The average prices of imports from India decreased substantially, forcing the Union industry to lower its prices in order to maintain a certain turnover, but at loss-making prices, to cover at least fixed costs. As a result, the financial situation of the Union industry deteriorated sharply from 2008.

(127) Based on the above, it is provisionally concluded that the subsidised imports from India, which significantly undercut the prices of the Union industry during the IP, have had a determining role in the injury suffered by the Union industry, which is reflected in its poor financial situation and in the deterioration of almost all injury indicators.

### 6.3. Effect of other factors

(128) The other factors which were examined in the context of causality are the economic crisis, the development of EU consumption, the cost of production, the imports from other third countries and the export performance of the sampled Union industry.

#### 6.3.1. The economic crisis, development of EU consumption and the cost of production

(129) The economic downturn contributed to the contraction in consumption and to the price pressure. The low level of demand for certain stainless steel bars resulted in the decrease in production by the Union industry and contributed to part of the depression of sales prices.

(130) Under normal economic conditions and in the absence of strong price pressure from the subsidised imports, the Union industry might have had some difficulty in coping with the decrease in consumption and the subsequent increase in fixed costs of production due to low capacity utilisation it experienced between 2007 and the IP. The subsidised imports however have intensified the effect of the economic downturn and have made it impossible to sell at or above cost price between 2009 and the IP.

(131) Based on the above, it appears that the decrease in EU demand linked to the economic crisis experienced in the sector contributed to the injury suffered by the Union industry. It is considered however that it does not break the causal link established in relation to the Indian low-priced subsidised imports.

#### 6.3.2. Imports from other third countries

		2007	2008	2009	IP
Imports from other countries	from third in tonnes	27 089	23 242	12 837	14 036
Index		100	86	47	52
Market share from other third countries		8,60 %	8,14 %	6,89 %	6,95 %
Index		100	95	80	81
Average price of imports		4 820	4 487	3 756	3 501
Index		100	93	78	73

(132) Based on Eurostat data, the volume of imports into the Union of certain stainless steel bars originating in third countries not concerned by this investigation decreased by 48 % over the period considered. The corresponding market share of the other third countries decreased by 19 %.

(133) The average prices of these imports were above those of the Indian exporting producers and above those of the Union industry. Consequently, it is provisionally considered that imports from the other third countries did not contribute to the injury suffered by the Union industry.

#### 6.3.3. Export performance of the sampled Union industry

	2007	2008	2009	IP
Export sales in tonnes	10 850	9 158	5 440	6 299
Index	100	84	50	58
Unit selling price in euro	4 452	3 728	2 495	2 388
Index	100	84	56	54

- (134) During the period considered the volume of export sales of the sampled Union industry decreased by 42 % and unit selling price by 46 %. Although these exports accounted only for 6 % of its total sales during the IP, it can not be excluded that this performance has had a negative impact on the Union industry. But it is considered that, given the low volume of exports, the impact is not enough to break the causal link between the subsidised imports and the injury found.

#### 6.4. Conclusion on causation

- (135) The investigation showed that the other known factors, such as imports from other third countries, exports by the Union industry and the decrease in consumption were not a determining cause for the injury suffered by the Union industry.
- (136) The coincidence in time between, on the one hand, the subsidised imports from India and the undercutting found and, on the other hand, the deterioration in the situation of the Union industry, leads to the conclusion that the subsidised imports caused the material injury suffered by the Union industry within the meaning of Article 8(5) of the basic Regulation.

### 7. UNION INTEREST

#### 7.1. General considerations

- (137) In accordance with Article 31 of the basic Regulation it has been examined whether, despite the provisional finding of injurious subsidisation, compelling reasons exist for concluding that it is not in the Union interest to adopt measures in this particular case. The impact of possible measures on all parties involved in this proceeding and also the consequences of not taking measures were considered.

#### 7.2. Interest of the Union industry

- (138) The Union industry has been suffering from injurious subsidised imports of the product concerned from India. It is also recalled that most economic indicators of the Union industry showed a negative trend during the period considered. Taking into account the nature of the injury (i.e. significant losses), a further and substantial deterioration in the situation of the Union industry appears unavoidable in the absence of measures.
- (139) The imposition of measures is expected to prevent further distortions and restore fair competition on the market.
- (140) Should measures not be imposed, prices would continue to be below cost and the Union producers' profits would deteriorate further. This would be unsustainable in the medium to long-term. In view of the losses incurred and the high level of investment in production, it can be

expected that most Union producers would be unable to recover their investments should measures not be imposed.

- (141) In addition, given that the Union industry consists of medium-sized and big enterprises spread throughout the Union, the imposition of countervailing measures will help to maintain employment in these areas.
- (142) It is therefore provisionally concluded that the imposition of countervailing duties would be in the interest of the Union industry.

#### 7.3. Interest of importers

- (143) All importers known to the Commission were asked to make themselves known and to provide basic information on their activities regarding the product concerned. Four importers replied to the sampling exercise. Questionnaires were sent to all four of them and only one importer replied. A verification visit at the premises of the importer, located in Germany, is envisaged for a later stage of the investigation.
- (144) Should countervailing duties be imposed, it cannot be ruled out that the level of imports originating in the country concerned may decrease, thus affecting the economic situation of the importers. However, the effect on importers of any increase in the prices of imports of the product concerned should only restore competition on the Union market and should not prevent the importers from selling the product concerned. In addition, the low proportion of the costs of the product concerned in the final users' total costs should make it easier for the importers to pass any price increase on to their customers. On this basis, it has been provisionally concluded that the imposition of countervailing duties is not likely to have a serious negative effect on the situation of importers in the Union.

#### 7.4. Interest of users

- (145) Questionnaires were sent to all the parties named as users in the complaint. None of the twenty two companies replied.
- (146) It is recalled that the product concerned is used in a wide variety of applications including the automotive industry, domestic appliances producers, medical and laboratory instruments, etc. However, in this proceeding the users are intermediate companies that produce and supply the elements for the aforementioned applications. In view of that, it is expected that these users would be in a position to pass on all or almost all of the increase in prices resulting from the imposition of countervailing duties to the final users, bearing in mind that for the latter, the impact of such measures will be negligible.

- (147) It is therefore provisionally concluded that the impact on costs of the users resulting from the imposition of countervailing duties would be not significant.

## 7.5. Conclusion on Union interest

- (148) In view of the above, it is provisionally concluded that there are no compelling reasons not to impose countervailing duties on imports of certain stainless steel bars originating in India.

## 8. PROPOSAL FOR PROVISIONAL COUNTERVAILING MEASURES

### 8.1. Injury elimination level

- (149) In view of the conclusions reached with regard to subsidisation, injury, causation and Union interest, provisional countervailing measures should be imposed in order to prevent further injury being caused to the Union industry by the subsidised imports.

- (150) For the purpose of determining the level of these measures, account was taken of the subsidy margins found and the amount of duty necessary to eliminate the injury sustained by the Union industry, without exceeding the subsidy margin found.

- (151) When calculating the amount of duty necessary to remove the effects of the injurious subsidisation, it was considered that any measures should allow the Union industry to cover its costs of production and to obtain 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 subsidised imports, on sales of the like product in the Union. It is considered that the profit that could be achieved in the absence of the subsidised imports should be based on the average pre-tax profit margin of the sampled Union producers in the year 2007. This is the last year before the IP where the Union industry was able to reach a normal profit margin. It is thus considered that a profit margin of 9,5 % of turnover could be regarded as an appropriate minimum which the Union industry could have expected to obtain in the absence of injurious subsidisation.

- (152) On this basis, a non-injurious price was calculated for the Union industry for the like product. The non-injurious price was obtained by adding the above mentioned profit margin of 9,5 % to the cost of production.

- (153) The necessary price increase was then determined on the basis of a comparison of the weighted average import price of the cooperating exporting producers in India, as established for the price undercutting calculations (see recital 101), with the non-injurious price of the products sold by the Union industry on the Union market during the IP. Any difference resulting from this comparison was then expressed as a percentage of the average total CIF import value.

### 8.2. Provisional measures

- (154) In the light of the foregoing, it is considered that, in accordance with Article 12(1) of the basic Regulation, provisional countervailing measures should be imposed in respect of imports originating in India at the level of the lower of the subsidy and the injury margins, in accordance with the lesser duty rule.

- (155) On the basis of the above, the countervailing duty rates have been established by comparing the injury elimination margins and the subsidy margins. Consequently, the proposed countervailing duty rates are as follows:

Company	Subsidy margin	Injury margin	Provisional CVD rate
Chandan Steel Ltd	3,4 %	28,6 %	3,4 %
Venus group	3,3 %	45,9 %	3,3 %
Viraj Profiles Vpl. Ltd	4,3 %	51,5 %	4,3 %
Cooperating non-sampled companies	4,0 %	44,4 %	4,0 %
All other companies	4,3 %	51,5 %	4,3 %

- (156) The individual company countervailing duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in India 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, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

- (157) Any claim requesting the application of these individual company countervailing 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 <sup>(1)</sup> forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.

<sup>(1)</sup> European Commission, Directorate-General for Trade, Directorate H, 1049 Brussels, Belgium.

## 9. DISCLOSURE

- (158) The above provisional findings will be disclosed to all interested parties which will be invited to make their views known in writing and request a hearing. Their comments will be analysed and taken into consideration where warranted before any definitive determinations are made. Furthermore, it should be stated that the findings concerning the imposition of countervailing duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive findings,

HAS ADOPTED THIS REGULATION:

### Article 1

1. A provisional countervailing duty is hereby imposed on imports of stainless steel bars and rods, not further worked than cold-formed or cold-finished, other than bars and rods of circular cross-section of a diameter of 80 mm or more, currently falling within CN codes 7222 20 21, 7222 20 29, 7222 20 31, 7222 20 39, 7222 20 81 and 7222 20 89 and originating in India.

2. The rate of the provisional countervailing duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and manufactured by the companies below shall be:

Company	Duty (%)	TARIC additional code
Chandan Steel Ltd, Mumbai, Maharashtra	3,4	AXXX
Venus Wire Industries Pvt. Ltd, Mumbai, Maharashtra	3,3	AXXX
Precision Metals, Mumbai, Maharashtra	3,3	AXXX
Hindustan Inox Ltd, Mumbai, Maharashtra	3,3	AXXX

Company	Duty (%)	TARIC additional code
Sieves Manufacturer India Pvt. Ltd, Mumbai, Maharashtra	3,3	AXXX
Viraj Profiles Vpl. Ltd, Thane, Maharashtra	4,3	AXXX
Companies listed in the Annex	4,0	AXXX
All other companies	4,3	AXXX

3. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

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

### Article 2

1. Without prejudice to Article 30 of Council Regulation (EC) No 597/2009, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within 1 month of the date of entry into force of this Regulation.

2. Pursuant to Article 31(4) of Council Regulation (EC) No 597/2009, the parties concerned may comment on the application of this Regulation within 1 month of the date of its entry into force.

### Article 3

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

Article 1 of this Regulation shall apply for a period of 4 months.

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

Done at Brussels, 22 December 2010.

*For the Commission*

*The President*

José Manuel BARROSO

## ANNEX

**Indian cooperating exporting producers not sampled****TARIC Additional Code AXXX**

Company name	City
Ambica Steel Ltd	New-Delhi
Bhansali Bright Bars Pvt. Ltd	Navi-Mumbai
Chase Bright Steel Ltd	Navi-Mumbai
D.H. Exports Pvt. Ltd	Mumbai
Facor Steels Ltd	Nagpur
Global smelters Ltd	Kanpur
Indian Steel Works Ltd	Navi-Mumbai
Jyoti Steel Industries Ltd	Mumbai
Laxcon Steels Ltd	Ahmedabad
Meltroll Engineering Pvt. Ltd	Mumbai
Mukand Ltd	Thane
Nevatia Steel & Alloys Pvt. Ltd	Mumbai
Panchmahal Steel Ltd	Kalol
Raajratna Metal Industries Ltd	Ahmedabad
Rimjhim Ispat Ltd	Kanpur
Sindia Steels Ltd	Mumbai
SKM Steels Ltd	Mumbai
Parekh Bright Bars Pvt. Ltd	Thane
Shah Alloys Ltd	Gandhinagar

**COMMISSION REGULATION (EU) No 1262/2010**  
**of 22 December 2010**

**amending Regulations (EU) No 462/2010, (EU) No 463/2010 and (EU) No 464/2010 as regards the closing date of the invitations to tender for the reduction in the duty on maize imported into Spain and Portugal and on sorghum imported into Spain, for the quota year 2010, and the dates of expiry of these Regulations**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)<sup>(1)</sup>, and in particular Article 144(1) in conjunction with Article 4 thereof,

Whereas:

- (1) Commission Regulations (EU) No 462/2010<sup>(2)</sup>, (EU) No 463/2010<sup>(3)</sup> and (EU) No 464/2010<sup>(4)</sup> opened invitations to tender for the reduction in the duty referred to in Article 136 of Regulation (EC) No 1234/2007 on maize imported into Spain, maize imported into Portugal and sorghum imported into Spain, respectively.
- (2) Between the date of the opening of the invitations to tender and 28 October 2010 the quantity of maize imported into Spain which can be classified as part of the reduced import duty quota, less the quantities of cereal substitutes referred to in Article 2(1) of Commission Regulation (EC) No 1296/2008 of 18 December 2008 laying down the detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal<sup>(5)</sup>, covers only 37 % of the quota. The quantity of maize imported into Portugal which can be classified as part of the reduced import duty quota covers 72 % of the quota. The quantity of sorghum imported into Spain which can be classified as part of the reduced import duty quota covers only 15 % of the quota. In view of the market conditions in Spain and Portugal, opening invitations to tender until 16 December 2010 is not likely to enable sufficient quantities to cover the quotas to be imported.
- (3) Therefore the invitations to tender for the reduction in the duty on maize and sorghum imported into Spain and maize imported into Portugal should be extended until the 2010 quotas are fully used up and at the latest until the end of May 2011, in accordance with Article 2(2) of Regulation (EC) No 1296/2008. Accordingly, the expiry dates of Regulations (EU) No 462/2010, (EU) No 463/2010 and (EU) No 464/2010 must be amended.

(4) Regulations (EU) No 462/2010, (EU) No 463/2010 and (EU) No 464/2010 should be amended accordingly.

(5) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Amendment of Regulation (EU) No 462/2010**

Regulation (EU) No 462/2010 is amended as follows:

- (a) Article 2 is replaced by the following:

*'Article 2'*

The invitation to tender is open until the quota is used up and at the latest until 31 May 2011. During the tendering period partial invitations to tender shall be issued and the dates for submission of tenders shall be laid down in the notice of invitation to tender.';

- (b) in Article 5, the third paragraph is replaced by the following:

'It shall expire on 31 May 2011.'

*Article 2*

**Amendment of Regulation (EU) No 463/2010**

Regulation (EU) No 463/2010 is amended as follows:

- (a) Article 2 is replaced by the following:

*'Article 2'*

The invitation to tender is open until the quota is used up and at the latest until 31 May 2011. During the tendering period partial invitations to tender shall be issued and the dates for submission of tenders shall be laid down in the notice of invitation to tender.';

- (b) in Article 5, the third paragraph is replaced by the following:

'It shall expire on 31 May 2011.'

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 129, 28.5.2010, p. 58.

<sup>(3)</sup> OJ L 129, 28.5.2010, p. 60.

<sup>(4)</sup> OJ L 129, 28.5.2010, p. 62.

<sup>(5)</sup> OJ L 340, 19.12.2008, p. 57.

*Article 3***Amendment of Regulation (EU) No 464/2010**

Regulation (EU) No 464/2010 is amended as follows:

(a) Article 2 is replaced by the following:

*'Article 2*

The invitation to tender is open until the quota is used up and at the latest until 31 May 2011. During the tendering

period partial invitations to tender shall be issued and the dates for submission of tenders shall be laid down in the notice of invitation to tender.';

(b) in Article 5, the third paragraph is replaced by the following:

'It shall expire on 31 May 2011.'

*Article 4***Entry into force**

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

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

Done at Brussels, 22 December 2010.

*For the Commission,  
On behalf of the President,  
Dacian CIOLOŞ  
Member of the Commission*

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# DECISIONS

## DECISION OF THE EUROPEAN CENTRAL BANK

**of 22 December 2010**

**amending Decision ECB/2009/25 on the approval of the volume of coin issuance in 2010**

**(ECB/2010/32)**

**(2010/813/EU)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 128(2) thereof,

Whereas:

- (1) The European Central Bank (ECB) has the exclusive right from 1 January 1999 to approve the volume of coins issued by the Member States whose currency is the euro (hereinafter the 'participating Member States').
- (2) Based on the estimates of demand for coins in 2010 that the participating Member States submitted to the ECB, the ECB approved the total volume of coins intended for circulation and collector coins not intended for circulation in 2010 in Decision ECB/2009/25 of 10 December 2009 on the approval of the volume of coin issuance in 2010 (<sup>(1)</sup>).
- (3) On 26 November 2010 the Belgian Ministry of Finance requested that the volume of euro coins that Belgium may issue in 2010 be increased by EUR 20 million to be able to respond to an unexpected demand for coins, and the ECB has approved this request. As a result, the table in Article 1 of Decision ECB/2009/25 needs to be replaced,

	'(EUR million)
	Issuance of coins intended for circulation and issuance of collector coins (not intended for circulation) in 2010
Belgium	125,2
Germany	668,0
Ireland	43,0
Greece	55,0
Spain	210,0
France	290,0
Italy	283,0
Cyprus	18,1
Luxembourg	40,0
Malta	10,5
Netherlands	54,0
Austria	306,0
Portugal	50,0
Slovenia	30,0
Slovakia	62,0
Finland	60,0'

### Article 2

This Decision is addressed to the participating Member States.

HAS ADOPTED THIS DECISION:

### Article 1

The table in Article 1 of Decision ECB/2009/25 is replaced by the following:

Done at Frankfurt am Main, 22 December 2010.

*The President of the ECB  
Jean-Claude TRICHET*

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<sup>(1)</sup> OJ L 7, 12.1.2010, p. 21.







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