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## Legislation

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## I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 173/2000  
of 24 January 2000**

**terminating the anti-dumping proceedings concerning imports of certain large aluminium electrolytic capacitors originating in Japan, the Republic of Korea and Taiwan**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup>, and in particular Article 9(5) thereof,

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

Whereas:

**A. PROCEDURE**

**1. Existing measures**

- (1) By Regulation (EEC) No 3482/92 <sup>(2)</sup>, the Council imposed definitive anti-dumping measures on imports of certain large electrolytic aluminium capacitors (hereinafter 'LAECs') originating in Japan. These measures took the form of *ad valorem* duties, ranging between 4,2 % and 75 %.
- (2) By Regulation (EC) No 1384/94 <sup>(3)</sup>, the Council imposed definitive anti-dumping measures on imports of LAECs originating in the Republic of Korea and Taiwan. These measures took the form of *ad valorem* duties, ranging between 10,7 % and 75,8 %.

**2. Grounds for the reviews**

*Japan*

- (3) Following the publication of a notice of impending expiry <sup>(4)</sup> of the anti-dumping measures applicable on imports originating in Japan, the Federation for Appropriate Remedial Anti-Dumping (FARAD) lodged a request for a review, on behalf of Nederlandse Philipsbedrijven BV (The Netherlands), now BC Components International BV, and BHC Aerovox Ltd. (United Kingdom), pursuant to Article 11 (2) of Regulation (EC)

No 384/96 (hereinafter referred to as the 'Basic Regulation').

- (4) Furthermore, the Commission decided, on its own initiative, to initiate an interim review of the same anti-dumping measures pursuant to Article 11(3) of the Basic Regulation in order to consider the impact of changed circumstances in relation to technical developments for the product as well as market conditions on dumping and injury.
- (5) Consequently, on 3 December 1997, the Commission announced by a notice published in the *Official Journal of the European Communities* <sup>(5)</sup> the initiation of a review of the anti-dumping measures applicable to imports of LAECs originating in Japan (hereinafter the 'review on Japan').
- Republic of Korea and Taiwan*
- (6) Further to the initiation of the review on Japan and further to the initiation of a new investigation concerning imports of LAECs originating in the United States of America and Thailand <sup>(6)</sup>, the Commission also decided, on its own initiative, to initiate a review of the anti-dumping measures applicable to imports originating in the Republic of Korea and in Taiwan, pursuant to Article 11(3) of the Basic Regulation.

- (7) This review was initiated on the grounds that available information indicated an increased market penetration in the Community market of the product concerned originating in the Republic of Korea and in Taiwan, despite the anti-dumping measures imposed. Moreover, in view of the internationally interdependent character of the market for this product and the interrelationship of the companies involved in this field, it was considered that this review together with the abovementioned review on Japan and the new proceeding concerning Thailand and USA, would allow the Commission to form a better overall view of the impact on the Community industry of the imports originating from the main exporting countries.

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30.4.1998, p. 18).

<sup>(2)</sup> OJ L 353, 3.12.1992, p. 1. Regulation as amended by Regulation (EC) No 2593/97 (OJ L 351, 23.12.1997, p. 6).

<sup>(3)</sup> OJ L 152, 18.6.1994, p. 1.

<sup>(4)</sup> OJ C 168, 3.6.1997, p. 4.

<sup>(5)</sup> OJ C 365, 3.12.1997, p. 5.

<sup>(6)</sup> OJ C 363, 29.11.1997, p. 2.

- (8) The review investigation (hereinafter the 'review on Korea and Taiwan' was initiated in April 1998 by the publication of an opening notice in the *Official Journal of the European Communities* <sup>(1)</sup>).

### 3. Investigations

- (9) The Commission officially advised the producers/exporters and importers known to be concerned as well as their associations, the representatives of the exporting countries concerned, the Community producers which requested the review on Japan, as well as known users, about the initiation of the reviews. Interested parties were given the opportunity to submit their views in writing and to request a hearing within the time limits set out in the notices mentioned above.
- (10) A number of producers/exporters in the countries concerned, as well as one Community producer, along with a number of users and importers in the Community, made their views known in writing. All parties, who so requested within the above time limits and showed that there were particular reasons why they should be heard, were granted the opportunity to be heard.
- (11) The Commission sent questionnaires to parties known to be concerned and to all the other companies which made themselves known within the deadlines set out in the above notices. Replies were received from one Community producer, three producers/exporters in Taiwan, four producers/exporters in Japan, as well as from their related importers in the Community. The Commission also received a reply from one unrelated importer in the Community which was considered meaningful and complete.
- (12) Verification visits with respect to the review investigations were carried out at the premises of the following companies:

#### *Community producer*

- Nederlandse Philipsbedrijven BV (Zwolle, The Netherlands) and its related company, Österreichische Philips Industrie, GmbH (Klagenfurt, Austria).

On 1 January 1999, these two companies were sold to a consortium of equity investors and formed, together with a number of other Philips entities, a new company, called BC Components BV. This company took over from the Philips Group all activities in the manufacturing and sales of LAECs. Consequently, these two companies will hereinafter jointly be referred to as 'BC Components'.

#### *Producers/exporters in the countries concerned*

- Nippon Chemi-con (Tokyo, Japan),
- Nichicon Corporation (Kyoto, Japan),
- Rubycon Corporation (Ina, Japan),
- Hitachi AIC Inc (Tokyo, Japan),
- Teapo Electronic Corp. (Taipei, Taiwan),

- Lelon Electronics Corp. (Taichung, Taiwan),
- Kaimei Electronic Corp. (Taipei, Taiwan).

#### *Unrelated importer in the Community*

- Beck Elektronik Bauelemente GmbH (Nuremberg, Germany).

#### *Related importers in the Community*

- Nichicon UK (Europe) Ltd (Camberley, United Kingdom),
- Rubycon Corporation UK branch (South Ruislip, United Kingdom),
- HPC Distribution (Krefeld, Germany),
- Europe Chemi-con (Nuremberg, Germany),

- (13) The Commission sought and verified all information deemed necessary for the purposes of its conclusions in both review investigations.
- (14) All the parties concerned were informed of the essential facts and considerations on the basis of which the conclusions of these reviews were made. All parties were granted a period within which to make representations. The representations received were taken into consideration and where appropriate, the findings have been changed accordingly.
- (15) The review on Japan could not be completed within the normal period of twelve months provided for in Article 11(5) of the Basic Regulation, owing to the fact that, as a result of the updated product definition, a full investigation on dumping, injury and causation was necessary. The timing of the review on Korea and Taiwan was aligned on that of the review on Japan.
- (16) The investigation of dumping in the review on Japan covered the period from 1 October 1996 to 30 September 1997 (hereinafter the 'Investigation Period', or 'IP'). The investigation of dumping in the review on Korea and Taiwan covered the period from 1 January 1997 to 31 December 1997.

The examination of injury for both investigations covered the period from 1 January 1993 to 31 December 1997, to take account of the existence of two differing investigation periods for dumping.

## B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

### 1. Product under consideration

- (17) The product under consideration is certain electrical capacitors, non-solid, aluminium electrolytic, with a CV product (capacitance multiplied by rated voltage) between 8 000 and 550 000 micro-coulombs ( $\mu\text{C}$ ), at a voltage of 160 V or more, currently classifiable under CN code ex 8532 22 00. As explained below, the term 'large' should no longer be used to describe these products. However, for practical reasons, they are referred to as 'LAECs', as was done in the original investigations concerning Japan, the Republic of Korea and Taiwan.

<sup>(1)</sup> OJ C 107, 7.4.1998, p. 4.

- (18) Capacitors are electronic components which can store and subsequently release electric energy. These components are used in the electric circuits of virtually all types of electronic equipment, in the computer, telecommunications, instrumentation, industrial, military, automotive and other consumer industries. Capacitors covered by these reviews (i.e. LAECs) are particularly used in power supply circuits in durable consumer electronics such as television sets, video cassette recorders and personal computers.
- (19) LAECs are produced in many different types depending, *inter alia*, on their capacitance, the rated voltage, the maximum operating temperature, the type of terminal and their dimensions. Despite these differences, all these types share the same basic physical and technical characteristics and uses. They were, therefore, considered as a single product.

## 2. Update of the product coverage in the review on Japan

- (20) The product definition in the original investigation concerning Japan, as set out in Regulation (EEC) No 3482/92, was restricted to certain large electrical capacitors, non-solid, aluminium electrolytic, with a CV product between 18 000 and 310 000  $\mu\text{C}$  at a voltage of 160 V or more, with a diameter of 19 mm or more and a length of 20 mm or more.

However, in the opening notice concerning the review on Japan, it was outlined that this original definition should be adapted to cover all LAECs, i.e. the same range of products as in the proceeding concerning the Republic of Korea and Taiwan. This was necessary in view of changed circumstances related to new technical and market developments of the product under consideration.

- (21) The review confirmed these changed circumstances. Firstly, it was found that technological evolution has led to the development of LAECs with increasingly higher capacitance and hence CV product, in increasingly smaller can sizes. Secondly, reported improvement in the electricity consumption of certain power supplies have created a new demand for LAECs with lower CV product (i.e. lower capacitance for a given voltage). Thirdly, it was found that, for a given CV product, LAECs of different sizes were offered on the Community market.

As a result of these developments, it was found that a whole range of imported LAECs originating in Japan fell outside the original product definition concerning this country. They were therefore exempt from anti-dumping measures, even though they were alike in all basic physical and technical characteristics and uses to those

covered by this definition (and hence by the anti-dumping measures). In addition, since several can sizes could be offered for the same CV product, and since the CV product chiefly determines the types of applications in which LAECs are used, it was considered that there were no longer grounds for differentiating between LAECs according to their size. The term 'large' should no longer be used to identify these products.

- (22) For all these reasons, it was confirmed that the product definition in the review on Japan should be adapted to cover all LAECs as defined above, i.e. certain electrical capacitors, non-solid, aluminium electrolytic, with a CV product (capacitance multiplied by rated voltage) between 8 000 and 550 000 micro-coulombs ( $\mu\text{C}$ ), at a voltage of 160 V or more.

## 3. Like product

- (23) A number of Japanese producers/exporters claimed that, because of differences in size, lifetime or terminal configuration, the exported products and those produced in the Community were not 'like products'.

- (24) However, it was established that, despite these differences, which are minor, the LAECs sold on the domestic market of the countries concerned, those exported from these countries into the Community and those produced and sold in the Community by the Community industry used the same basic technology and were all produced according to world-wide applicable industry standards. Therefore, all these products had the same basic physical and technical characteristics. They also had the same types of applications and were all used to perform the same types of functions. Therefore, all these products were interchangeable and in direct competition with each other, on a type-by-type basis.

- (25) Consequently, the claim was rejected and it was concluded that the LAECs sold on the domestic market of the countries concerned, those exported from these countries into the Community and those produced and sold in the Community by the Community industry were to be considered to be like products within the meaning of Article 1(4) of the Basic Regulation.

## C. DUMPING

### 1. Japan

- (26) Since the circumstances regarding dumping had significantly changed in view of the updating of the product definition, the Commission conducted a full investigation, which led to the calculation of a new dumping margin for the IP.

(27) Four companies replied to the questionnaire for producers/exporters.

*Normal value*

(28) As far as the determination of normal value is concerned, the Commission first established, for each producer/exporter, whether its total domestic sales of LAECs were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the Basic Regulation, domestic sales were considered representative when the total domestic sales volume of each producing company was at least equal to 5 % of its total export sales volume to the Community.

Subsequently, those types of LAECs were identified which were sold domestically by those companies having representative domestic sales and which were identical or directly comparable to the types sold for export to the Community.

(29) For each of the types sold by the producers/exporters on their domestic markets and found to be directly comparable to types sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the Basic Regulation. Domestic sales of a particular type were considered sufficiently representative when the total domestic sales volume of LAECs of that type during the IP represented 5 % or more of the total sales volume of LAECs of the comparable type exported to the Community.

(30) An examination was also made as to whether the domestic sales of each type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the type in question. In cases where the sales volume of LAECs sold at a net sales price equal to or above the calculated cost of production represented 80 % or more of the total sales volume, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales made during the IP, irrespective of whether these sales were profitable or not. In cases where the volume of profitable sales of LAECs represented less than 80 % but 10 % or more of the total sales volume, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales only.

(31) When the requirements set out above were met, normal value was based for each type on the basis of the prices paid or payable, in the ordinary course of trade, by independent customers in the domestic market of the exporting country, as set out in Article 2(1) of the Basic Regulation.

(32) In cases where the volume of profitable sales of any type of LAECs represented less than 10 % of the total sales volume, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.

(33) On the basis of the method referred to above, it was possible, for approximately 60 % of the types sold for export to the Community, to establish normal value on the basis of the domestic price of comparable types in accordance with Article 2(2) of the Basic Regulation. Wherever domestic prices of a particular type sold by a producer/exporter could not be used, constructed normal value had to be used in preference to domestic prices of other similar types or to domestic prices of other producers/exporters, due to the number of different types and the variety of factors affecting them. Using domestic prices of other types would have meant in this case making numerous adjustments, most of which would have had to be based on estimates. It was therefore considered that constructed value formed a more appropriate basis to establish normal value.

(34) Consequently in accordance with Article 2(3) of the Basic Regulation, normal value was constructed by adding to the manufacturing costs of the exported types, adjusted where necessary a reasonable percentage for selling, general and administrative expenses (SG&A) and a reasonable margin of profit. To this end, the Commission examined whether the SG&A incurred and the profit realised by each of the producers/exporters concerned on the domestic market constituted reliable data. Actual domestic SG&A expenses were considered reliable when the domestic sales volume of the company concerned could be regarded as representative.

(35) The domestic profit margin was determined on the basis of domestic sales made in the ordinary course of trade.

For two of the Japanese companies it was found that the information provided regarding the cost of production of LAECs sold in the domestic market did not accurately reflect costs incurred during the IP. Consequently, it was necessary to use, in part, the facts available in order to correct the inaccurate information, in accordance with Article 18(1) of the Basic Regulation. For this purpose, in one case the Commission collected and verified on spot the information used by the company in its actual cost system and established an adjustment to take account of the consistent underestimation of the costs reported in the questionnaire reply. For the other company, some of the information provided in the questionnaire reply, concerning production costs in one factory, was found not to relate to the investigation period. It was therefore decided to exclude sales of products made in this factory from both the profitability and dumping determinations, in accordance with Article 18(1) of the Basic Regulation.

For another company, it was found that the information contained in the reply to the questionnaire regarding domestic sales was unreliable, since it did not include sales of certain types and it included numerous sales to domestic traders destined for subsequent export and sales to related companies for their own consumption. It was therefore decided to use, in accordance with Article 18(1) of the Basic Regulation, such facts as were available in order to rectify the partial non cooperation. Hence, the transactions destined for re-export and the sales to related companies were excluded. For the unreported types sold domestically a profit margin was established by using the domestic types with a higher profitability.

#### *Export price*

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

(37) Where the export sale was made to a related importer, the export price was constructed pursuant to Article 2(9) of the Basic Regulation, namely on the basis of the price at which the imported products were first resold to an independent buyer.

In such cases, adjustments were made for all costs incurred between importation and resale and for profits accruing, in order to establish a reliable export price at the Community frontier level. On the basis of the information available from a cooperating unrelated importer, this profit was set at around 5 %. This was considered to be a conservative estimate for the sector concerned.

(38) Pursuant to Article 11(10) of the Basic Regulation, in those cases where the export price had to be constructed, it was examined whether the applicable anti-dumping duty was duly reflected in the resale prices and the subsequent selling prices in the Community, in order to decide if the amount of duties paid should be deducted from the price. For this purpose, the companies were requested to provide conclusive evidence thereof.

(39) Two of the Japanese producers/exporters provided conclusive evidence that the applicable anti-dumping duty was duly reflected in their resale prices and in subsequent selling prices in the Community. Consequently, it was decided not to deduct the amount of duties paid from the relevant export prices, pursuant to Article 11(10) of the Basic Regulation. The remaining companies failed to provide conclusive evidence that the duty was reflected in resale prices and subsequent selling

prices and the Commission consequently deducted the anti-dumping duty from the resale prices.

#### *Comparison*

(40) For the purposes of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the Basic Regulation.

Accordingly, allowances for differences in import charges, transport, insurance, handling charges, packing costs, credit, commissions and discounts have been granted where applicable and justified, and when the party concerned could demonstrate the effect of any alleged difference on prices and price comparability.

(41) The request for a level of trade adjustment made by one of the producers/exporters to take into account an alleged difference in advertisement costs was rejected in the absence of any difference between domestic and export levels of trade.

(42) Requests for salesmen salaries' adjustments made by two producers/exporters were also rejected since the companies failed to demonstrate any effect on price comparability.

#### *Dumping margins*

(43) According to Article 2(11) of the Basic Regulation, the weighted average normal value by type was compared with the corresponding weighted average export price.

(44) The comparison, as described above, shows the existence of dumping in respect of all producers/exporters that cooperated with the Commission. The dumping margins expressed as a percentage of the cif import price at the Community border are the following:

- Hitachi AIC Inc: 25,5 %,
- Rubycon Corporation: 5,4 %,
- Nichicon Corporation: 20,5 %,
- Nippon-Chemicon: 23,1 %.

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

Due to the high level of cooperation from Japanese producers/exporters it was decided to establish the residual dumping margin at the level of the highest dumping margin established for a cooperating company.

Expressed as a percentage of the CIF import price at the Community border, the residual margin is 25,5 %.

**2. Taiwan**

- (46) Since the circumstances regarding dumping have changed significantly, the Commission conducted a complete investigation, which led to the calculation of new dumping margins.

*Level of cooperation*

- (47) Three companies replied to the questionnaire for producers/exporters.

One of the three companies was found to have only traded the product concerned to the Community. Considering that this company had not produced the product sold to the Community, no individual assessment of its situation with respect to dumping could be made.

*Normal value*

- (48) The procedures and methodologies followed by the Commission to assess the normal value of products originating in Taiwan were the same as those used for Japan and set out above, except where, in accordance with Article 18 of the Basic Regulation, the facts available were used.

- (49) For both producers/exporters in Taiwan, it was found that the information provided in the questionnaire response regarding domestic sales was unreliable, since they failed to report a considerable number of sales of LAECs subject to the investigation. It was therefore decided for both companies to base normal value on facts available in accordance with Article 18 of the Basic Regulation. For this purpose, it was decided to take account of the amount of profit attributed to the non reported domestic sales by applying the method described above for Japan.

- (50) On the basis of the method referred to above, it was possible for a certain number of LAEC types sold for export to the Community, to establish normal value on the basis of the domestic price of comparable types in accordance with Article 2(2) of the Basic Regulation.

For all other LAEC types sold for export to the Community, normal value had to be constructed.

*Export price*

- (51) The procedures and methodologies followed in assessing the export price of products originating in Taiwan were the same as those used in the review on Japan and set out above.
- (52) All sales of LAECs made by the Taiwanese companies on the Community market were to independent importers in the Community. Consequently, the export price was established by reference to the prices actually paid or payable.

*Comparison*

- (53) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the Basic Regulation.

- (54) Accordingly, allowances for differences in transport, handling, ancillary and credit costs, have been granted where applicable and justified, namely when the party concerned could demonstrate the effect of any alleged difference on prices and price comparability.

*Dumping margins*

- (55) According to Article 2(11) of the Basic Regulation, the weighted average normal value by type was compared with the corresponding weighted average export price.

- (56) The comparison, as described above, shows the existence of dumping in respect of all producers/exporters that cooperated with the Commission. The dumping margins expressed as a percentage of the cif import price at the Community border are the following:

- Teapo Electronic Corporation: 8,1,
- Kaimei Electronic Corp.: 13,8 %.

- (57) In view of the high level of non cooperation, the residual dumping margin was based on the highest dumped product for the company with the highest dumping margin, expressed as a percentage of the cif import price at the Community border. It was considered that this was the most appropriate method to avoid giving a bonus for non cooperation.

Expressed as a percentage of the cif import price at the Community border, the residual margin is 39,7 %.

**3. Republic of Korea**

- (58) No company replied to the questionnaire for producers/exporters. In view of this lack of cooperation, the dumping margin had to be established in accordance with Article 18 of the Basic Regulation on the basis of the facts available. In this respect it should be noted that the information available was limited. As far as the export prices from the Republic of Korea were concerned, statistical information was only available for a wider product range. Moreover, since this product is commonly sold by the domestic producers/exporters directly to industrial users and not via traders it was not possible to obtain reliable price information on the Korean domestic market. It was therefore decided to take the highest dumping margin found for a model sold in representative quantities in one of the other countries concerned, i.e. Japan.

- (59) As a result, the residual dumping margin for the Republic of Korea, expressed as a percentage of the cif import price at the Community border, was set at 76,2 %.

## D. COMMUNITY INDUSTRY

### 1. Composition of the Community industry

(60) The two reviews cover the same product and are based on data largely pertaining to the same time periods. Therefore, it is considered appropriate to investigate them simultaneously. Consequently, the same producers in the Community constitute the Community production and the Community industry in both reviews.

(61) Four large producers of LAECs, i.e. BC Components, BHC Aerovox Ltd (United Kingdom), Vishay Roederstein GmbH (Germany) and Siemens-Matsushita Components GmbH & Co. KG (Germany), as well as some small to medium-sized producers, were established in the Community.

Three producers supported the request for review on Japan: BC Components, BHC Aerovox Ltd and Vishay Roederstein GmbH. However, the two latter producers did not cooperate with the Commission and were, therefore, not considered part of the Community industry.

(62) As indicated above, BC Components is a new company, incorporated after the end of the IP. It has, notably, taken over the activities of Philips components BV in the manufacturing and sales of LAECs. This takeover was made on a going concern basis, in particular as regards the manufacturing and sales of LAECs in the Community. Moreover, BC Components BV, expressed its support for both reviews.

(63) Siemens-Matsushita Components GmbH & Co. KG (hereinafter 'Siemens-Matsushita') and the other small and medium-sized producers were not among the producers which requested the review on Japan. Moreover, these companies did not make themselves known after the publication of the notices announcing the initiation of the reviews. Therefore, in accordance with Article 5(4) of the Basic Regulation, these producers could not be considered part of the Community industry.

(64) One Japanese producer/exporter contested the fact that Siemens-Matsushita was not contacted by the Commission and the fact that this company was excluded from the Community industry. These claims could not be accepted because, as stated above, further to the publication of the above notices, Siemens-Matsushita did not make itself known as an interested party and did not express any interest in cooperating. Also, it did not oppose its exclusion from the Community industry.

In addition, available information indicated that Siemens-Matsushita is a joint venture owned in equal parts by Siemens AG (Germany) and the Matsushita

Electric Industrial Ltd Group (Japan), a non cooperating Japanese producer/exporter. Siemens AG holds control of the corporate management and holds the casting vote in the event of a tied vote. Siemens-Matsushita was reported not to have imported any LAECs originating in the countries concerned and to sell its own production of LAECs on the Community market under its own brand. However, through its 50 % shareholding, the Matsushita Electric Industrial Ltd Group is clearly in a position to exert control or restraint on Siemens-Matsushita. Available information also indicated that Siemens-Matsushita benefited from the shared know-how of its two shareholders. These two companies are therefore related within the meaning of Article 4(2) of the Basic Regulation.

(65) The important shareholding of Matsushita Electric Industrial Ltd in Siemens-Matsushita and the abovementioned shared know-how lead to the conclusion that Siemens-Matsushita is in a fundamentally different position as compared to that of BC Components. Therefore, in accordance with Article 4(1)(a) of the Basic Regulation, it was considered appropriate to exclude Siemens-Matsushita from the definition of the Community industry.

(66) It should finally be underlined that Siemens-Matsushita was already excluded from the definition of the Community industry in the original investigations concerning imports from Japan and imports from the Republic of Korea and Taiwan. This approach has not been disputed in either of these two investigations.

(67) A number of Japanese producers/exporters claimed that BC Components should be excluded from the Community industry because, until the end of the IP, companies which were related to it at that time, in particular Philips Consumer Electronics BV, imported significant quantities of LAECs from Japan.

(68) The Commission examined whether the fact that Philips Consumer Electronics BV imported LAECs from Japan was a sufficient reason to exclude BC components, at that time the only LAECs manufacturer within the Philips Group, from the Community industry.

It was found that almost all imports made by the Philips Group were not destined for further resale, but were incorporated by Philips Consumer Electronics BV in its own production of electronic products. Moreover, the investigation revealed that the majority of these imports (more than 85 %) were of 'radial' products either not yet produced by BC Components or still in a start-up phase of production. In these circumstances, Philips Consumer Electronics BV had no other choice but to be supplied by producers/exporters in the countries concerned.

It was also found that the remaining imports made by Philips Consumer Electronics BV were products directly competing with BC Components' production and represented an insignificant share of the total imports into the Community. It was also noted that Philips Consumer Electronics BV, despite the above imports, was the biggest traditional customer of BC Components, since it represented approximately 40 % of its total sales in the IP. The choice of Philips Consumer Electronics BV to be partly supplied by producers/exporters in the countries concerned was made possible by the structuring of the Philips Group into different profit centres which are all independent and free to choose their suppliers, notably when it is necessary to complete or supplement the range of products offered within the Philips Group (as in the case of the 'radial' LAECs).

- (69) For the above reasons, the imports made by Philips Consumer Electronics BV were considered as normal commercial behaviour until such time as fair conditions of competition would be restored on the Community market.
- (70) BC Components, represented a major proportion (41 %) of the total estimated Community production.
- (71) Based on Article 4(1)(a) of the Basic Regulation, the estimated production of Siemens Matsushita was not taken into account in the determination of the total Community production, for the purposes of the assessment of the representativity of the Community industry. One cooperating Japanese producer/exporter claimed that, had the estimated production of Siemens-Matsushita been taken into account, BC Components would not have had sufficient standing to be representative of the total Community production.

However, it was found that even if the production of Siemens-Matsushita, as established on the basis of the information submitted by the cooperating parties had been included in the determination of the total Community production, the Community industry would still have represented a major proportion of this production, pursuant to Article 5(4) of the Basic Regulation.

- (72) It was therefore confirmed that BC Components constituted the Community industry in both reviews, within the meaning of Article 4(1) of the Basic Regulation.

## E. INJURY

### 1. Community consumption

- (73) Consumption was computed as the sum of the verified sales made by the Community industry, an estimate of the sales made by the other producers located in the Community and an estimate of the volume of imports into the Community.

- (74) In estimating the volume of imports, account was taken of the fact that the CN code within which LAECs fall embraces other types of capacitors not covered by the present reviews. Therefore, no precise figures concerning total imports of LAECs could be obtained from Eurostat statistics. Consequently, the volume of imports into the Community was based on an estimate provided by the Community industry. This estimate was adjusted, for the countries concerned, to take account of the verified information submitted by the cooperating producers/exporters concerned. This approach was consistent with the one used in the original investigations.
- (75) On the above basis, consumption increased between 1993 and 1995, from 78,8 million units to 91 million units, then slightly declined to 87,9 million units in the IP, but increased again to 90,8 million units in 1997. Overall consumption increased by 12 % over the period considered.

### 2. Imports on the Community market from the countries concerned

#### *Cumulation of the dumped imports*

- (76) In view of the updating of the product definition in the review on Japan, it was considered appropriate to perform a full injury and causation analysis with respect to the imports originating in that country. In addition, since the review on Korea and Taiwan is being considered simultaneously with that on Japan, it was examined whether the effects of the imports originating in all the three countries concerned should be assessed cumulatively.
- (77) As stated above, the dumping margins found in respect of all these three countries were above the de minimis level and the volume of imports originating in these countries was significant during the IP.
- (78) As regards the conditions of competition, it was noted that the products imported from all the countries concerned and the Community produced products were alike in their basic physical and technical characteristics and in their end uses and that they were sold through comparable sales channels. The imported products and the Community produced products were therefore competing with each other. It was also found that the average prices of such imported products were all undercutting the Community industry's prices and were therefore exerting on the Community produced products similar conditions of competition. Moreover, the average prices of the imports subject to anti-dumping measures originating in all these countries also showed a similar increasing trend over the period considered, as did the average sales prices of the Community industry.

- (79) It was therefore concluded that, in accordance with Article 3(4) of the Basic Regulation, the dumped imports from all the countries concerned should be examined on a cumulated basis.

*Volume and market share of the cumulated dumped imports*

- (80) The volume of the cumulated dumped imports into the Community of LAEC originating in Japan, the Republic of Korea and Taiwan increased by 11 % over the period considered, i.e. from 33,3 million units in 1993 to 37,1 million units in the IP. At the end of 1997, the cumulated imports peaked at 38,9 million units. The cumulated market share of these imports decreased from 42,5 % in 1993 to 36,6 % in 1995 and then increased again to 42,2 % in the IP. At the end of 1997, this market share was 42,8 %. Overall, the market share of the cumulated imports remained stable.

*Prices of the dumped imports*

- (81) The investigation has shown that the average sales prices of the dumped imports from the countries concerned were significantly below the sales prices of the Community industry.
- (82) For the purposes of the determination of price undercutting, a comparison was made, on a type-by-type basis, between the prices charged by the producers/exporters concerned to unrelated importers in the Community or, where applicable, the prices of the producers/exporters' related importers to the first independent customers in the Community, on the one hand, and the prices of the Community industry to independent buyers, on the other. In the absence of any cooperation from interested parties from the Republic of Korea, the undercutting levels were established by applying the same methodology as for the dumping margin determination in respect to that country, i.e. the highest undercutting level found for cooperating Japanese producers/exporters. In the absence of reliable information from Eurostat (see below), this was considered to be the best information available.
- (83) Imported and Community produced LAECs were compared on a type-by-type basis. Types were identified on the basis of the following criteria which basically influenced the sales prices and the customer's purchasing decision: the capacitance, the rated voltage, the operating temperature, the type of terminal and the size. Where, on the basis of all these criteria, no identical exported and Community produced types were found, closely resembling ones were used. In this way, 40 % to 70 % of exports by producers/exporters were covered.

- (84) The price comparison was made on the basis of a selection of transactions representing approximately 95 % of all transactions made by the Community industry. The sales prices of the Community industry were adjusted, where necessary, to ex-works level. For the comparison of sales prices of export transactions made directly to

unrelated customers, adjustments were also made to the producers/exporters' selling prices (CIF Community frontier) to take account of customs duty paid (including anti-dumping duties, if any) and an allowance in respect of post importation costs and profit. All prices were compared on an average-to-average basis, after excluding all discounts and rebates and at a comparable level of trade

- (85) As a result of this comparison, the following significant weighted average price undercutting margins expressed as a percentage of the Community industry's prices, were found
- Japan between 0 % and 68,6 %, on average 32,2 %,
  - Taiwan between 0 % and 60,0 %, on average 30,6 %,
  - Republic of Korea: 68,6 %.

### 3. Situation of the Community industry

*Sales volume and market share of the Community industry*

- (86) The volume of sales of the Community industry on the Community market increased between 1993 and 1995 from an indexed 100 to an indexed 121, and then decreased to an indexed 95 in the IP, i.e. an overall decrease of 5 % over the period considered. At the end of 1997, these sales increased to an indexed 97, showing a decline of 3 % compared to 1993.
- (87) The market share held by the Community industry decreased from an indexed 100 in 1993 to an indexed 85 in the IP, i.e. a decline of 15 %. This market share remained stagnant at an indexed 84 at the end of 1997.

*Production, capacity and capacity utilisation*

- (88) Production by the Community industry increased between 1993 and 1995 from an indexed 100 to an indexed 123, then decreased to an indexed 98 in the IP, and went up to an indexed 100 at the end of 1997. Although the output decreased only slightly over the period considered, it decreased by nearly 20 % towards the end of it, i.e. between 1995 and the IP.
- (89) Capacity increased by 25 % between 1993 and 1995, remained stable through 1996 but then increased by a further 16 % in the IP and remained stable at the end of 1997. The increase in capacity between 1993 and 1995 was in line with the development of consumption on the Community market over that period of time. The increase in capacity in the IP was partly due to the development of a new range of so-called 'radial' LAECs.
- (90) Assessed in the light of the development of production and capacity, capacity utilisation increased between 1993 and 1994, from an indexed 100 to an indexed 109, but declined steadily thereafter to an indexed 70 in the IP and an indexed 71 at the end of 1997.

*Stocks*

- (91) The evolution of the stocks held by the Community industry showed an irregular trend. These stocks increased between 1993 and 1995 from an indexed 100 to an indexed 168, then declined in 1996 to an indexed 93 and increased again in the IP, to an indexed 252. The number of days of sales represented by the stocks held by the Community industry nearly tripled over the period considered, from 13 days in 1993 to 37 days in the IP. However, stocks decreased again at the end of 1997, to an indexed 113.

*Evolution of sales prices of the Community industry*

- (92) The average sale prices of the Community industry to unrelated parties increased between 1993 and the IP by 16 %. However, these prices declined between 1995 and the IP by nearly 8 %. During the same period, the average prices of the dumped imports originating in Taiwan and the Republic of Korea increased as well, by respectively 28 % and 23 %. The average prices of the dumped imports originating in Japan remained overall stable between 1993 and the IP. However, while the prices of the products subject to anti-dumping measures increased significantly, those of the products not subject to such measures declined sharply, by approximately 40 %.
- (93) The above evolution of the average selling prices of the Community industry and that of the dumped imports has to be seen in the light of the substantial increase in consumption during the period considered, the changes in product mix between years, the wide diversity of different types of LAECs and the corresponding diversity of sales prices, the introduction of new products on the Community market, which tend to have a higher sales price than older ones, as well as the effect of the imposition of previous anti-dumping measures on Japan (1992) and on Taiwan and South Korea (1994).

*Profitability*

- (94) The financial results of the Community industry, expressed as a percentage of net sales, showed a loss of close to - 6 % in 1993. These results then improved and in 1995 the Community industry recorded a profit of close to 6 %. However, after 1995 the situation significantly deteriorated and it was found that in the IP and at the end of 1997 the Community industry was approximately at break-even point.
- (95) It should be noted that the increase in profitability between 1993 and 1995 coincided with the period of time immediately following the imposition of anti-dumping measures on Japan and on the Republic of Korea and Taiwan. It also coincided with a period of growing consumption. All this had positive effects on the Community industry's sales, both in volume and in

value, and on its production levels. On the other hand, the decline in profitability after 1995 should be mainly seen in the light of the Community industry's decline in sales and relative decline in average sales prices. The decline in sales triggered a significant drop in production and a decline in the usage of capacity installed, with a consequent increase of unit costs, due to the increased share of fixed costs in the unit cost of production.

*Investments, employment and productivity*

- (96) Yearly investments made by the Community industry increased between 1993 and 1996 from an indexed 100 to an indexed 576. Investments were stopped in the IP. It should be noted that the investments made between 1993 and 1995 enabled the Community industry to increase capacity for the production of new LAEC types and to improve overall performance.
- (97) Employment declined during the period considered by 22 %, as a result of higher efficiency and of a general restructuring, which was made necessary by declining financial results after 1995. At the end of 1997, employment levels were approximately at the same level as at the end of the IP.
- (98) Productivity of the Community industry, measured as output per person employed, increased between 1993 and 1995 from an indexed 100 to an indexed 128, essentially as a result of the decline in employment and the increase in production levels. Productivity declined after 1995, due to the strong decrease in production, but went up again in the IP, in view of the continuous decline in employment. Overall, productivity increased by 26 % during the period considered.

*Conclusion*

- (99) Between 1993 and the end of the IP, at a time of growing demand on the Community market (+ 12 %), the Community industry has experienced a drop in sales volume (- 5 %), market share (- 15 %), production (- 2 %), capacity usage (- 30 %) and employment (- 22 %).

Furthermore, at the end of the IP, the Community industry's financial situation, despite a brief improvement between 1993 and 1995, was still unsatisfactory and largely insufficient to maintain investments and research and development (a break-even situation was found for the IP).

- (100) The negative developments suffered by the Community industry occurred primarily in the period between 1995 and the IP, when, in addition to a significant loss in sales volume, market share and output, profitability declined from a profit of approximately 6 % on turnover in 1995 to a break-even situation in the investigation period.

- (101) The analysis of injury until the end of 1997, which was made to take account of the end date of the investigation period for dumping in the review on Korea and Taiwan, confirmed the above findings.
- (102) In the light of the foregoing analysis, the Commission concluded that the Community industry suffered material injury within the meaning of Article 3(1) of the Basic Regulation.

## F. CAUSATION OF INJURY

### 1. Effects of the cumulated dumped imports originating in Japan, the Republic of Korea and Taiwan.

- (103) The decline in sales volume and market share suffered by the Community industry during the period considered coincided with a very significant increase in the cumulated dumped imports. Indeed, while the Community industry saw its sales and market share declining by 5 % and 15 % respectively, the cumulated dumped imports increased by 11 % and maintained their market share.
- (104) This evolution is even more striking when looking at the period during which the Community industry suffered most strongly, i.e. between 1995 and the investigation period. During that period, the Community industry's sales declined by 22 %, while the volume of the dumped imports increased by 11 %. The market share held by the Community industry decreased by 19 %, while the market share of the imports increased from 36,6 % to 42,2 %, i.e. by 15 %. In a context of slightly declining consumption, the dumped imports not only did not decrease, as could have been anticipated, but actually rose, thereby taking sales volume and market share from the Community industry.

In addition, significant dumping and price undercutting was found in respect of all countries considered. In view of the price sensitivity of the market and its relative transparency, this undercutting caused the Community industry's sales to decrease. This decline, coupled with a decrease in sales prices, caused a drop in profitability. Finally, as a result of the unsatisfactory financial results, the Community industry had to suspend any investment projects during the investigation period.

- (105) The evolution of the dumped imports also prevented the Community industry from fully recovering from the past injury suffered at the time preceding the imposition of anti-dumping measures on imports originating in Japan, the Republic of Korea and Taiwan.

### 2. Other factors

- (106) The Commission examined whether the material injury suffered by the Community industry should not be attributed to factors other than the dumped imports originating in the countries concerned.

#### *Other imports*

- (107) The market share of imports from third countries not concerned by these reviews increased by 5,7 % during the period considered. In particular, the imports originating in the United States of America and Thailand increased significantly over the period considered. Moreover, the prices of these imports were found to be, on average, lower than the prices of the Community industry. Therefore, it cannot be excluded that the imports originating in the United States of America and Thailand contributed to the injury sustained by the Community industry.
- (108) One of the Japanese producers/exporters claimed that imports originating in Brazil were the main source for the injury suffered by the Community industry. In support of this claim, statistics based on CN code 8532 22 00 were provided, which indicated a strong increase of imports from Brazil into the Community over the period considered.
- (109) However, as stated above, the CN code includes not only LAECs but many other types of capacitors. No evidence was given that the statistics provided related to LAECs only, nor was any evidence presented that such imports were made at dumped and injurious prices. Finally, the available information concerning total imports of LAECs into the Community appears to indicate that imports from Brazil, if any, would be likely to be below de minimis levels. The claim was therefore rejected.

#### *Evolution of Community consumption*

- (110) One of the Japanese producers/exporters claimed that any injury suffered by the Community industry was due to a general downturn in the economic cycle of the LAEC market after 1995.
- (111) Over the period considered, the Community consumption increased by 12 %. Despite this increase, the sales of the Community industry declined by 5 % and this industry lost market share (- 15 %). Between 1995 and the IP, the Community consumption declined by 4 %, while the sales of the Community industry decreased by a much greater proportion (- 25 %). At the same time, the cumulated dumped imports increased by 11 %, despite the decline in consumption, and, consequently, these imports gained market share (+ 15 %). Therefore, the injury suffered by the Community industry could not be solely attributed to the decline in consumption between 1995 and the IP.

*Performance of the Community industry*

- (112) One Japanese producer/exporter argued that the injury suffered by the Community industry was not due to the dumped imports, but resulted from the relative inefficiency of the Community industry. In particular, the following comments were raised:
- (113) It was argued that the producers/exporters were more cost-efficient and more productive than the Community industry and that this advantage in terms of costs of production enabled these producers/exporters to sell LAEC at lower prices.

However, without examining the issue as to whether the producers/exporters concerned actually enjoyed any kind of cost advantage, the following must be stressed. The increased imports made from the countries concerned by the present reviews at dumped prices, even with anti-dumping measures in force, prevented the Community industry from making full use of its production capacity and thereby caused it severe injury. In these circumstances, it is considered that, irrespective of any cost advantages, even if these were accepted, this dumping of the exporters caused injury to the Community industry.

- (114) It was further claimed that the Community industry was less advanced in product innovation and miniaturisation than the producers/exporters in the countries concerned and that, as a result of this, the Community industry's product range was less attractive to customers.

The Commission compared the product ranges offered by the cooperating parties. This comparison showed that, during the investigation period, the Community industry's product range was largely comparable in extension and features to that of the exporting producers. This included any miniaturised types. The comparisons on a type by type basis which were made for the purposes of the price undercutting calculations clearly indicated a very large degree of overlap between the Community produced and the imported products. Finally, it was also found that, as is the usual practice in this industry, the Community industry was able to produce 'special' or 'custom' designs, according to specific needs of specific customers. Therefore, the investigation did not identify any major differences in product range between the Community industry and the producers/exporters concerned, such as to justify any difference in attractiveness to the final customers.

- (115) Finally, it was claimed that the Community industry sold over-specified LAECs in terms of lifespan. This over-specification resulted in substantially higher selling prices than the exporting producers concerned.

The results of the investigation have shown that the Community industry manufactured LAEC in accordance with the specifications requested by their customers. Moreover, it was found that the catalogue lifespan specifications of the Community industry were not always based on the same criteria as those of the producers/

exporters, since different ways existed to express the lifetime of LAECs (e.g. 'total load life', 'test life', 'endurance', etc.), depending on the measurement criteria used. In this respect, no evidence was provided that the alleged overspecification of the Community industry's products could not have resulted only from different criteria used to measure the lifespan. Therefore, the argument cannot be considered as being substantiated and the allegations of these exporters cannot be accepted.

*Injury caused by the Community industry's increased capacity and investments*

- (116) It was noted that the Community industry increased capacity and invested at a time, after 1995, when the market entered a downturn. However, it was also established that the investments made after 1995, and the subsequent capacity increase, were essentially related to the development of new state-of-the-art 'radial' capacitors. These investments did not represent more than 1 % of turnover. Their financial impact (i.e. additional depreciation and additional interest charges) was almost insignificant, compared to other costs. In addition, a small profit was recorded on the sales of such new 'radial' products, which was, however, insufficient to compensate for the losses incurred on other LAECs. Also, the sales of these new 'radial' products between 1996 and the IP avoided a further, even stronger decline in the total sales of the Community industry.

Therefore, the investments made after 1995 and the subsequent increase in capacity cannot be held responsible for the strong decline in profitability which took place after that date, especially when considering the simultaneous decline in sales prices (- 8 %), due to the strong downwards pressure exerted by the dumped imports.

**3. Conclusion**

- (117) Although it cannot be excluded that the imports from other third countries, in particular the United States of America and Thailand, and a slight reduction in Community consumption may have had an impact, the cumulated dumped imports originating in Japan, the Republic of Korea and Taiwan had, taken in isolation, caused a material injury to the Community industry.
- (118) This conclusion is drawn in particular in view of the decline in sales and the loss in market share suffered by the Community industry, in a period of increasing demand on the Community market, which coincided with an increase in volume of the abovementioned dumped imports, at prices which significantly undercut the Community industry's prices. The unfair competition from LAECs originating in the above countries also caused a decline in the Community industry's output and, between 1995 and the IP, a relative decline in prices. The combination of these two factors resulted in a significant drop in profitability during this latter period.

### G. LIKELY EFFECTS OF THE REMOVAL OF THE ANTI-DUMPING MEASURES

- (119) The possible effects of the removal of the anti-dumping measures currently applicable to Japan, the Republic of Korea and Taiwan were examined. Pursuant to Articles 11(2) and (3) of the Basic Regulation, the following elements were given particular attention: the effectiveness of the existing measures and the likelihood of continuation or recurrence of dumping and injury.

#### 1. Effectiveness of the existing measures

- (120) As explained above, the measures currently applicable on Japan cover a narrower range of products than the review investigation. Consequently, the analysis of the impact of the existing anti-dumping measures applicable on the Japanese imports can only be performed for this narrower range of products.

On the basis of the available information, it was noted that the volume of imports originating in Japan subject to anti-dumping measures declined during the period considered by approximately 40 % and that import prices showed a steady increase over the period considered. As a result of these trends, the market share of these imports declined from approximately 18 % in 1993 to approximately 9 % in the investigation period.

Similarly, the examination of the evolution of the volume of imports originating in the Republic of Korea and Taiwan indicates a relative decline over the period considered, which resulted in a consequent reduction in their market share. Average import prices increased as well, although remaining at injurious levels.

- (121) It can therefore be concluded that the measures in place where at least partially effective in restoring fair conditions of competition on the Community market.
- (122) However, despite the anti-dumping measures in place, the Community industry continued to suffer material injury. This should be attributed to the increasing amount of dumped imports originating in Japan, not subject to anti-dumping measures and to changed circumstances as regards dumping for the Republic of Korea and Taiwan. Indeed, the dumping margin for the Republic of Korea increased since the original investigation, from 70,6 % to 76,2 %. The dumping margin for the sole Taiwanese producer/exporter which cooperated in both the original and the review investigation concerning Taiwan (Kaimei Electronic Corp.) increased as well, from 10,7 % to 13,8 %.

#### 2. Likelihood of continuation or recurrence of injury

- (123) Actual material injury, caused by the cumulated dumped imports originating in Japan, Taiwan and the Republic of

Korea was established, despite the existing anti-dumping measures. This provided sufficient evidence of a strong likelihood of the continuation of injury should the anti-dumping measures applicable to Japan, the Republic of Korea and Taiwan lapse.

In addition, as regards Japan, available information indicated that the cooperating Japanese producers/exporters still had significant spare capacity to increase their production and their exports into the Community, should the existing measures lapse.

- (124) The review investigation also pointed to the existence of strong ties between certain Japanese producers/exporters and certain producers/exporters located in countries not subject to anti-dumping measures, including the USA and Thailand. It was considered that, as a result of these relationships, the Japanese producers/exporters in question could pursue a global strategy, especially since they sometimes sold in the Community through the same sales channels as the US and Thai producers/exporters. The strong increase in imports originating in these two latter countries during the period considered, reinforced the likelihood of renewed increased imports originating in Japan, should measures lapse and hence the likelihood of the continuation of injurious dumping.

### H. COMMUNITY INTEREST

#### 1. Preliminary remarks

- (125) In both the original investigations concerning Japan, the Republic of Korea and Taiwan the Council concluded that no compelling reasons existed not to impose measures. This conclusion was drawn, essentially, in view of the negligible share of LAECs in the total costs of the end users (less than 1 %).

The Commission examined whether there were any changed circumstances since the original investigation which could lead to a different conclusion concerning the Community interest. To this end, information was requested from all interested parties known, including parties in the upstream industries, the Community producers, importers/distributors and the users. It should be noted that no replies were received from the upstream industries.

#### 2. Likely effects of the anti-dumping measures on users

- (126) Two categories of users were identified
- The manufacturers of power supply devices. These power supplies are then incorporated in finished consumer electronics goods,
  - The manufacturers of finished electronics goods.

(127) As regards the manufacturers of power supplies, according to the information available, this industry employs some 12 000 people and represents a total turnover of approximately EUR 1,5 billion. Submissions were received from a number of companies accounting for approximately 9 % of total industry's turnover and employment and whose consumption of LAEC in the IP accounted for approximately 5 % of the total Community consumption, according to available information. These companies argued that the existing anti-dumping duties resulted in a significant increase in purchase costs. In the longer run, this increase in costs could force a significant number of companies to relocate production outside the Community, with a consequent significant loss of employment.

However, the examination of the facts has shown that the cost of a LAEC represents approximately 4 % of the total cost of a power supply device. The measures proposed would result in a negligible increase in costs (less than 1 %). It was also found that the weighted average profitability of the companies which submitted information, expressed as a percentage of net sales, was more than 18 % in the IP. This profitability was attained despite the anti-dumping measures in force and even increased between 1993 and the IP.

(128) As regards the manufacturers of finished consumer electronics goods, the costs of LAECs represent even less than 4 % of total costs of production (generally around 1 %). The same conclusion can be drawn should the LAECs currently not covered by anti-dumping measures also become subject to such measures.

(129) Finally, no information was submitted to the Commission which would indicate that users (power supply manufacturers or finished electronic goods producers) had relocated production outside the Community as a result of the measures imposed on Japan, in the Republic of Korea and Taiwan. Any risks of relocation resulting from the continuation and/or the amendment of the anti-dumping measures should be considered as being unlikely.

### 3. Likely effects on importers and distributors

(130) On the basis of the available information, it was concluded that the continuation and/or the amendments of the anti-dumping measures would only have a minimal impact on the importers and distributors of LAECs in the Community, given that LAECs represented, on a weighted average basis, a relatively small proportion of their total activities, in terms of turnover and profit contribution.

### 4. Conclusion on Community interest

(131) On the basis of the above elements, no changed circumstances as regards Community interest were found which could lead to a different conclusion than the one reached in the original investigations on Japan, the Republic of Korea and Taiwan. It is therefore confirmed

that no compelling reasons exist which would indicate that it is not in the Community interest to renew anti-dumping measures on imports of LAECs originating in Japan, the Republic of Korea and Taiwan.

## I. TERMINATION OF THE PROCEEDINGS

(132) As mentioned above in recital (6), a further proceeding, concerning LAECs originating in the United States of America and Thailand was initiated in November 1997, pursuant to Article 5 of the Basic Regulation. The Commission's investigation definitively established the existence of significant dumping and material injury on the Community industry resulting therefrom. No compelling reasons were found indicating that new definitive measures would be against the Community interest. Consequently, the Commission proposed to the Council the imposition of definitive anti-dumping measures on the imports of LAECs originating in the United States of America and Thailand. However, the Council did not adopt the proposal within the time limits laid down in the Basic Regulation. As a result, definitive measures were not imposed on imports from the United States of America and Thailand and the provisional measures, which entered into force in August 1998, lapsed on 28 February 1999.

(133) The new investigation concerning the United States of America and Thailand and the two present reviews were conducted, to a large extent, simultaneously. As indicated above, basically the same conclusions in the present reviews have been reached as in the new proceeding concerning the United States of America and Thailand, for the same product concerned. These conclusions call in principle for amending the definitive measures on imports from Japan, the Republic of Korea and Taiwan.

However, Article 9(5) of the Basic Regulation provides that anti-dumping duties shall be imposed on a non-discriminatory basis on imports of a product from all sources found to be dumped and causing injury.

(134) Therefore, it is concluded that, in the absence of measures on the United States of America and Thailand, the imposition of any measures on imports originating in Japan, the Republic of Korea and Taiwan as a result of the present investigation would be discriminatory towards these latter three countries.

(135) In consideration of the above, in order to ensure a coherent approach and to respect the principle of non-discrimination as set out in Article 9(5) of the Basic Regulation, it is necessary to terminate the proceedings concerning imports of LAECs originating in Japan, the Republic of Korea and Taiwan, without the imposition of anti-dumping measures.

- (136) One Japanese exporting producer claimed that the proceeding concerning Japan should be retroactively terminated as from the date of initiation of the present review, i.e. 3 December 1997, on the grounds that, while the review on Japan was pending, imports originating in that country were still subject to measures and were therefore discriminated against compared to the imports originating in the United States of America and Thailand, for which no duties were collected.
- (137) However, as noted above in recital (132) above, between December 1997 and 28 February 1999 imports originating in the United States of America and Thailand were subject to investigation, as were the imports originating in Japan. The fact that measures were in force against Japan but not against the United States of America and Thailand over that period of time is merely a reflection of the fact that the proceeding concerning the United States of America and Thailand was at a different stage, the investigation being the initial investigation, whereas as regards Japan, the measures in force were those imposed by Regulation (EEC) No 3482/92. In these circumstances, no discrimination occurred because the situation of each proceeding was different.
- (138) Nevertheless, it is accepted that, from 28 February 1999 onwards, given the considerations set out in recitals (132) to (135) above, imports originating in Japan should be treated in the same way as those originating in the United States of America and Thailand. The same is true for the Republic of Korea and Taiwan. The investigation concerning the United States of America and Thailand had to be concluded by 28 February 1999, either by the imposition of measures or the termination

of the proceeding. The present investigation has reached similar conclusions to the investigation concerning the United States of America and Thailand, and thus the same treatment must be applied to the present proceeding.

- (139) Consequently, the proceedings concerning imports of LAECs originating in Japan, the Republic of Korea and Taiwan, should be terminated without the re-imposition of anti-dumping measures, with a retroactive effect as of 28 February 1999,

HAS ADOPTED THIS REGULATION:

*Article 1*

The anti-dumping proceeding concerning imports of certain large aluminium electrolytic capacitors originating in Japan is hereby terminated.

*Article 2*

The anti-dumping proceeding concerning imports of certain large aluminium electrolytic capacitors originating in the Republic of Korea and Taiwan is hereby terminated.

*Article 3*

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

It shall apply from 28 February 1999.

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

Done at Brussels, 24 January 2000.

*For the Council*

*The President*

J. GAMA

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**COUNCIL REGULATION (EC) No 174/2000**

of 24 January 2000

**repealing Council Regulation (EEC) No 3433/91 insofar as it imposes a definitive anti-dumping duty on imports of gas-fuelled, non-refillable pocket flint lighters originating in Japan**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup>, and in particular Article 11(6) thereof,

Having regard to the proposal submitted by the Commission,

Whereas:

**A. PROCEDURE****1. Measures in force**

- (1) By Regulation (EEC) No 3433/91 <sup>(2)</sup>, hereinafter referred to as the 'definitive duty Regulation', the Council imposed a definitive anti-dumping duty on imports of gas fuelled, non-refillable pocket flint lighters originating in Japan, the People's Republic of China, the Republic of Korea and Thailand. As regards Japan, the duty rate was set at 35,7 %.
- (2) The definitive duty Regulation was amended with respect to China in 1995 by Regulation (EC) No 1006/95 <sup>(3)</sup>. Insofar as Thailand is concerned, it was replaced by Regulation (EC) No 423/97 in March 1997 <sup>(4)</sup>.

**2. Initiation of a review**

- (3) In May 1996 the Commission published a notice of the impending expiry of the measures in force concerning Japan and the Republic of Korea <sup>(5)</sup>. After this publication, the Commission received a request for a review pursuant to Article 11(2) of Regulation (EC) No 384/96, hereinafter referred to as the 'Basic Regulation', with regard to imports of gas-fuelled, non-refillable pocket flint lighters originating in Japan, lodged by the European Federation of Lighter Manufacturers on behalf of BIC S.A. and Flamagas S.A. Subsequently this request received the support of Swedish Match S.A. BIC S.A., Flamagas S.A. and Swedish Match S.A. represent almost the totality of Community production of the product concerned.
- (4) The request contained sufficient prima facie evidence that the expiry of measures would be likely to result in a recurrence of dumped imports causing injury. Evidence

of the presence of under-utilised capacity in Japan as well as evidence that imports from Japan would have an immediate depressing effect on the prices of the Community producers supported this alleged likelihood. It was further alleged that this situation would exacerbate the continuing vulnerability of the Community industry.

- (5) Therefore, the Commission announced the review of the definitive duty Regulation in respect of Japan <sup>(6)</sup>. This review was opened in accordance with Articles 11(2) and 11(3) of the Basic Regulation, as an interim review also seemed to be appropriate. As regards Korea, the measure expired <sup>(7)</sup>.

**3. Review investigation**

- (6) The Commission officially advised the only producer in the exporting country known to be concerned, Tokai Corporation, its related importer in the Community, Tokai Seiki GmbH, the representatives of the exporting country and the complainants.
- (7) The parties directly concerned were given the opportunity to make their views known in writing and to request a hearing. One of the complainants requested and was granted a hearing.
- (8) The Commission sent questionnaires to all parties known to be concerned and received detailed information from the complainant Community producers, their subsidiaries, the Japanese exporter and its related importer located in the Community.
- (9) The Commission sought and verified all information it deemed necessary for the purpose of, the investigation and carried out verifications at the premises of the following companies:

*Community producers and their subsidiaries*

- BIC S.A. (the BIC group), Clichy, France,
- BIC BJ 75, Redon, France,
- BIC Deutschland GmbH & Co., Ettlingen, Germany,
- BIRO BIC Ltd, London, UK,
- Laforest BIC S.A., Tarragona Spain,
- Swedish Match Lighters B.V., Assen, Netherlands,
- Swedish Match Lighters (including Cricket SA), Rillieux-la-Pape, France,
- Arnold André GmbH & Co., KG, Bünde, Germany,
- Flamagas S.A., Barcelona and Llinas del Valle, Spain.

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30.4.1998, p. 18).

<sup>(2)</sup> OJ L 326, 28. 11. 1991, p. 1. Regulation as last amended by Regulation (EC) No 423/97 (OJ L 65, 6.3.1997, p. 1).

<sup>(3)</sup> OJ L 101, 4.5.1995, p. 38.

<sup>(4)</sup> OJ L 65, 6.3.1997, p. 1.

<sup>(5)</sup> OJ C 155, 30.5.1996, p. 6.

<sup>(6)</sup> OJ C 361, 30.11.1996, p. 3.

<sup>(7)</sup> OJ C 360, 29.11.1996, p. 2.

*Producer in the country of origin*

— Tokai Corporation Japan, Tokyo, Japan.

- (10) For the purpose of the dumping, injury and Community interest determinations, the geographical scope of the investigation was the Community of 15.
- (11) The investigation of dumping covered the period from 1 January 1996 to 30 September 1996 (hereinafter referred to as the 'investigation period'). The examination of injury covered the period from 1992 up to the end of the investigation period.
- (12) The investigation exceeded the normal time period provided for in Article 11(5) of the Basic Regulation. This was due to the fact that the Commission considered that the data gathered and examined initially were not sufficient to be used as a basis for a new anti-dumping duty and that, for an accurate assessment of the likelihood of recurrence of injurious dumping, a verification visit to the exporter had to be carried out at an advanced stage of the investigation. Moreover, the investigation was extended considerably by the Commission's two initial proposals to maintain the anti-dumping duty giving rise to lengthy deliberations in the Council.

**B. PRODUCT CONCERNED AND LIKE PRODUCT****1. Product concerned**

- (13) The products under consideration are gas-fuelled, non-refillable pocket flint lighters (hereinafter referred to as 'disposable flint lighters') falling within CN code ex 9613 10 00.

*Request for inclusion of other lighters*

- (14) It should be recalled in this respect that there are other disposable lighters on the market (so-called electronic or piezo lighters) which are not subject to anti-dumping measures. Two months after the opening of the review investigation, Swedish Match S.A. made a request to extend the scope of this review investigation to electronic (or piezo) lighters arguing that gas-fuelled, non-refillable pocket flint lighters and gas-fuelled, non-refillable electronic lighters (hereinafter 'electronic lighters') formed one single category of the product.
- (15) As regards this request, it should be recalled that the proceeding — opened in April 1990 — concerns gas-fuelled, non-refillable pocket flint lighters and that it has already been assessed (see in particular Regulation (EEC) No 3433/91 which confirms the provisional findings laid down in recital 11 to Council Regulation (EEC) No 1386/91 (OJ L 133, 28.5.1991, p. 20)) that the (basic) technical characteristics of electronic lighters were quite different from those of the disposable flint lighters currently subject to anti-dumping duties. The request did not contain any evidence showing that this conclusion

was no longer appropriate. In particular, it did not show any changes in the (basic) technical characteristics, such as the ignition system, of either type of lighters, which could have invalidated the findings of the definitive duty Regulation.

- (16) As the evidence that was presented was insufficient to justify the inclusion of electronic lighters in the investigation, and the request was made belatedly by a party that had supported the request for a review without reservation, the request for an extension of the scope of the review investigation could not be granted.

*Different sizes and models*

- (17) Finally, it should be noted that the product under consideration is manufactured in different sizes and models. All these disposable flint lighters have the same basic technical characteristics and the same basic application, and perform the same function. As in previous investigations, the whole range of models of disposable flint lighters was, therefore, considered as forming one single category of product.

**2. Like product**

- (18) As regards the disposable flint lighters produced and sold domestically in Japan, the investigation showed that such products were in all respects identical to, or closely resembling, those exported to the Community from the country in question.
- (19) The investigation also established that the disposable flint lighters imported from the country concerned, on the one hand, and those produced by the Community industry and sold in the Community market, on the other hand, possess similar basic technical characteristics and are intended for the same use. The disposable flint lighters produced and sold by the Community industry should therefore be regarded as like products to those imported from the country concerned.
- (20) Accordingly, it was concluded that the disposable flint lighters produced and sold in the Community, as well as those produced and sold in Japan should be regarded as like products, within the meaning of Article 1(4) of the Basic Regulation, to those exported to the Community from Japan.

**C. DUMPING****1. Normal value**

- (21) As in the original investigation, Tokai Corporation was the sole cooperating exporting Japanese producer. During the investigation period it sold 20 different models of the product concerned on its domestic market. Only two of those models were exported to the Community.

- (22) It was found that this exporter's overall domestic sales of the product concerned during the investigation period were representative since the total volume of such sales exceeded the threshold of 5 % of export sales provided for in Article 2(2) of the Basic Regulation. Domestic sales of each of the two product models exported to the Community were also representative because they met the same 5 % criterion.
- (23) In accordance with Article 2(4) of the Basic Regulation, the Commission also had to determine whether domestic sales of each model were made in the ordinary course of trade by looking at the proportion of profitable sales to total sales. The investigation showed that all domestic sales made during the investigation period were profitable. Consequently, normal value was based on the average weighted sales price of all domestic transactions of the two models in question.

## 2. Export price

- (24) The totality of the export sales made by the exporter concerned during the investigation period was made to a related company in the Community. The export prices were therefore constructed, in accordance with Article 2(9) of the Basic Regulation, on the basis of resale prices to the first independent buyer adjusted to take account of all costs incurred between importation and resale including customs and anti-dumping duties and a 5 % profit margin. The latter was established on the basis of the profit margins considered reasonable in this business sector for unrelated importers.
- (25) Where cost allocations for importers' general administration and selling expenses were necessary in the construction of export prices, these were made on the basis of turnover.

## 3. Comparison and dumping margin

- (26) In accordance with Articles 2(10) and 2(11) of the Basic Regulation, the weighted average normal value per model was compared with the weighted average export price per model, at ex-factory level and at the same level of trade. For the purpose of a fair comparison, adjustments were granted for those differences affecting price comparability for which satisfactory evidence was supplied. Thus, adjustments were made in respect of transport, insurance, credit and packaging.
- (27) The comparison of normal value and export prices showed the existence of dumping. The dumping margin expressed as a percentage of the CIF Community frontier value of the imports was found to be 208,1 %.

## D. COMMUNITY INDUSTRY

- (28) In the present investigation, Tokai Seiki GmbH, a subsidiary of Tokai Corporation, a producer of the product concerned in the Community and the only cooperating importer in the Community of disposable flint lighters originating in Japan, was not included in the definition of the Community industry in accordance with Article 4(1)(a) of the Basic Regulation as it was the sole importer of the product under consideration and a 100 % subsidiary of Tokai Corporation Japan.
- (29) Disregarding Tokai Seiki GmbH's production, the three Community producers which cooperated with the present investigation (including their subsidiaries) represented almost the totality of Community production of disposable flint lighters. Consequently, these three cooperating Community producers constitute the Community industry within the meaning of Article 4 of the Basic Regulation.

## E. INJURY

### 1. Preliminary remark

- (30) In Recital 15 of the definitive duty Regulation it was concluded that 'the cumulated dumped imports from Japan, the People's Republic of China, the Republic of Korea and Thailand had caused material injury to the Community industry'. As meanwhile the measure concerning the Republic of Korea lapsed and the measures concerning the People's Republic of China and Thailand have been amended further to interim reviews as stated in recital 2 of this Regulation, the actual impact of imports originating in Japan, as well as the possible impact seen from the angle of recurrence, had to be examined in isolation.

### 2. Consumption in the Community

- (31) In order to calculate total apparent consumption of disposable flint lighters in the Community, Community producers' sales in the Community were added to the total imports originating in third countries, as declared under CN code ex 9613 10 00. An adjustment was made as regards imports originating in China for the years 1994 and 1995 (see recital 46 to Regulation (EC) No 423/97). On this basis annual apparent consumption in the Community increased by 27 %, from 617,7 million units in 1992 to 785,4 million units in 1996.

### 3. Factors relating to imports originating in Japan

#### *Volume and market share*

- (32) From 1992 to the investigation period, imports from Japan plummeted to very low levels in absolute terms. The indexed import figures were 100 in 1992, 150 in 1993, 33 in 1994 and 83 in 1995, while sales of such imports during the investigation period represent but 6,1. The market share of imports from Japan decreased from around 0,5 % in 1992 and 1993 to 0,06 % during the investigation period. The anti-dumping measure under review therefore effectively limited the impact of dumping of imports of disposable flint lighters originating in Japan.
- (33) In this context it should, however, be noted that a considerable portion of overall imports was dumped. In particular, imports from Mexico, the Philippines and Thailand should be mentioned in this regard, as referred to in Regulation (EC) No 423/97.

#### *Price undercutting*

- (34) The Commission calculated to what extent the prices charged by the exporter in the Community market undercut the price charged by the Community producers. As all sales made by the exporter were made to its related importer, this comparison was made at the level of sales to the first independent customer, and on the basis of the related importer's and the Community producers' weighted average selling prices free of all rebates and taxes. The price charged by the related importer was not adjusted for anti-dumping duties paid.
- (35) The comparison was made at the level of prices to wholesalers (thus excluding sales to retailers and the advertising sector). Moreover, the price comparison was made for naked lighters (including, however, the lighters the exporter presented as 'wrapped') as the exporter had not exported any printed or sleeved lighters during the investigation period.
- (36) As in the original investigation and in accordance with Article 11(9) of the Basic Regulation, the price undercutting calculation was made for lighters with a similar gas content (see recital 13 of Regulation (EEC) No 3433/91).
- (37) On this basis it was found that the average price of the imported products undercut the weighted average price of the Community producers by 22,9 % during the investigation period. This is to be compared with the average undercutting of 11,5 % found in the original investigation. It should therefore be concluded that the exporter's undercutting level has increased, despite the

upward effect the anti-dumping duty of 35,7 % must have had on the price charged by the related importer.

### 4. Situation of the Community industry

#### *Production*

- (38) From 1992 to 1996 production by the Community industry increased by 28 %.

#### *Capacity and Utilisation of capacity*

- (39) The capacity utilisation rate increased from 66 % in 1992 to 73 % in 1994, to drop to 71 during the investigation period. This drop coincided, however, with an increase in capacity. Although an increase in capacity of almost 25 % was reported, the increases in capacity are quite recent, as from 1992 to 1994 capacity did not increase at any material rate.

#### *Sales volume*

- (40) Sales in units in the Community market by the Community industry increased by 33 % from 1992 to the investigation period.

#### *Market share*

- (41) In a growing market, the market share of the Community industry dropped rather steadily from 66,1 % in 1992 to 46,8 % in 1995, after which it increased somewhat to 53,6 % during the investigation period. This market share is still somewhat lower than the 1990 market share of 57,3 % (see recital 48 to Regulation (EC) No 423/97) but shows that the Community industry is beginning to recover from the effects of dumped imports.

#### *Price evolution and total sales value*

- (42) It was established that weighted average sales prices of the Community industry had dropped by almost 8 % from 1992 to the investigation period. The favourable development of sales volume was therefore not fully reflected in terms of turnover: the value of sales in the Community market increased by only 23 %.
- (43) The lighter market is known to be very price sensitive. This means that faced with low priced dumped imports, the Community industry is either forced to lower its prices in order to try to maintain market share, production level and capacity utilisation, or set to lose market share if it tries to maintain its prices.

*Profitability*

- (44) After several years of losses, the Community industry's return on sales became slightly positive in 1991 and deteriorated somewhat in 1992 (see recital 555 to Regulation (EC) No 423/97).
- (45) For the present investigation 1992 was taken as the basis for comparison. After a further deterioration in 1993, the Community industry's financial results have steadily improved: compared to 1992, the profit rates more than doubled in 1994 and more than tripled in the investigation period.
- (46) Nevertheless, the data supplied by the Community industry, which for this purpose did not include one of the complainants given that it did not give an admissible reply on profitability, show that since 1992 its overall financial performance continued to be below the target set as a reasonable profit for this industry in the definitive duty Regulation (see recital 17 of that Regulation). In fact, profits in 1992 and 1993 were very small and, although in the following years an improvement was noticeable, profits were less than half the non-injurious level set.

*Stocks*

- (47) The Community industry did not build up any significant stocks. It is usual practice in this sector to stop production if stocks become too big because of the security risks of stocking lighters containing gas for a long period of time. Moreover, as rationalisation efforts have been made the overall stocks at the end of the investigation period were some thirty percent smaller than those at the end of 1992.

*Employment*

- (48) From 1992 to the investigation period, employment in the Community industry was stable from 1992 to 1994 and increased by some 17 % since 1995. While this could be said to be a sign of recovery, it should be noted that the employment figure for 1992 was at its lowest level and had fallen by 13 % since 1989 (see recital 49 to Regulation (EC) No 1006/95). It was noted that a considerable portion of the expansion pertains to the sales and administrative segment rather than to production.

*Exports*

- (49) The Community industry performed well in export markets. Its sales in units steadily increased from 1992 to the investigation period. Over this period export sales, which represent approximately 60 % of the Community industry's overall production, increased 69 %.

**5. Conclusion**

- (50) The situation of the Community industry has improved in recent years due to an increase of their sales in both the Community market and third countries. This development coincided with the imposition of several anti-dumping duties.
- (51) The increase in sales in the Community market is most probably due to both the growth of consumption and, to a lesser extent, to the beneficial effects of anti-dumping measures taken by the Community.
- (52) The downward trend of the market share of the Community industry was reversed since 1995, but its 53,6 % market share during the investigation period is still smaller than the 1992 one.
- (53) The increase in apparent consumption and the fact that anti-dumping measures were imposed, should normally have had an upward effect on prices in the Community market. Nevertheless, the prices of the Community industry were found to have decreased by 8 %.
- (54) Sales by the Community industry in the Community market proved more profitable during the investigation period than in e.g. 1992. However, the prices charged by the exporter in the Community market still undercut the Community industry's prices after application of the anti-dumping duty and the levels of profitability were still much lower than the non-injurious level fixed in the definitive duty Regulation.
- (55) In the light of the above, it is considered that the Community industry continues to suffer injury, notably in terms of profitability and the growth of market share. As the market share of imports of disposable flint lighters originating in Japan was very small, it was not possible to establish a causal link between the dumped Japanese imports and this injury. The injury caused by these imports is therefore considered negligible or, in any case, not material.

**F. LIKELIHOOD OF RECURRENCE OF INJURIOUS DUMPING****1. Introduction**

- (56) The Community industry requested that the definitive duty Regulation be reviewed arguing that there was a likelihood of recurrence of injurious dumping. In order to make a determination on this point, a number of

factors were considered, in particular the exporter's group behaviour, the availability of unused capacity at the exporter's plant in Japan, the existence of a price undertaking with respect to exports by a company belonging to the exporter's group and the price the exporter might charge if the duty were allowed to expire. In addition to the examination of the position of the Community industry, the impact that resumed exports from Japan would be likely to have on the Community industry, the existence of dumping practices and the evolution of the share of overall imports in the Community market were examined.

## 2. Exporter's group behaviour

(57) In recent years, only small quantities of disposable flint lighters were imported from Japan and sold on the Community market, especially when compared to imports from several other third countries (primarily China, Mexico, the Philippines and Thailand) whose prices were found to be at dumped levels. However, the low level of imports originating in Japan has to be considered in the light of the Tokai group's behaviour.

(58) The sole exporter in the investigation concerning, *inter alia*, imports originating in Mexico further to which definitive anti-dumping measures were imposed in March 1997 — was a fully owned and controlled subsidiary of the Tokai group developed after the imposition of anti-dumping measures on disposable flint lighters originating in Japan (see recitals 9 and 36 to Regulation (EC) No 423/97). The import figures show that imports from Mexico have simply replaced those produced (and exported) by Tokai Corporation at its Japanese plant, after the imposition of measures on the latter in 1991. Indeed, the imported quantities of lighters originating in Mexico are similar to the quantities that Tokai Corporation used to deliver to the Community market from Japan prior to the imposition of the 1991 measure. Moreover, it should be recalled that Tokai Corporation started a downward price trend by selling Japanese lighters at dumped prices in the late 1980s. This trend was subsequently reinforced by dumping practices of other Asian producers and its resumption of dumping through its subsidiary set up in Mexico.

(59) In the light of the above, the low level of Japanese imports during the investigation period cannot lead to the conclusion that these developments, which occurred after the imposition of measures in 1991, are the result of normal economic behaviour of an exporting producer, i.e. behaviour independent of the measures subject to review. In fact, they are the result of an apparent strategy of the Tokai group.

(60) It is therefore considered appropriate to take into account that, as of 7 March 1997, definitive anti-dumping duties were imposed on imports of disposable flint lighters originating in Mexico, the Philippines and Thailand by Regulation (EC) No 423/97 and that the Mexican exporter, currently subject to anti-dumping measures, is a subsidiary of the Japanese exporter, when examining what is likely to happen if the existing measure were allowed to lapse.

## 3. Japanese production capacity

(61) From 1992 to the investigation period, the exporter's production capacity decreased by 54 %. However, in addition to the decrease of production capacity, the utilisation rate (expressed in percent) of its remaining capacity also decreased by 38 % from 1992 to the investigation period.

(62) During the investigation period, unused capacity at the exporter's Japanese plant accounted for a bigger quantity than the 56,6 million disposable flint lighters Tokai Corporation exported from Japan in 1989 (i.e. the investigation period of the original investigation). It was also established that, from 1992 to the investigation period, the unused capacity had been rather stable in absolute terms, given the concomitant decreases of production capacity and the capacity utilisation rate.

## 4. Price undertaking applicable to another group company

(63) After the imposition of the measure under review, the exporter shifted the production of disposable flint lighters destined for export to the Community market to Mexico and subsequently offered a price undertaking in respect of imports originating in that country when anti-dumping measures on these imports were warranted in March 1997.

(64) Without moving production lines from Mexico to Japan, the exporter has sufficient freely disposable capacity at its Japanese plant to supply the Community market with a quantity higher than its 1989 exports and this would allow the exporter to charge lower prices on the Community market than permitted for imported products originating in Mexico.

## 5. Continuation of dumping and price the exporter might charge

(65) As stated above, during the investigation period, imports of disposable flint lighters originating in Japan continued to be dumped. As the imported products were sold at prices which were significantly more dumped than in the original investigation it appears likely that dumping will continue.

- (66) Despite the application of the anti-dumping duty, undercutting of the average unit price charged by the Community producers was still significant (22,9 %) during the investigation period. If the anti-dumping duty had been deducted from the price charged to the first independent customer, the average price of the Community industry would have been undercut by as much as 43,1 %.

## 6. Impact on the Community industry

- (67) The price depressing effect of continued dumping during the investigation period was minimal, due to the application of the anti-dumping duty and the small quantities imported. The exporter had, however, sufficient unused capacity to resume exports of disposable flint lighters originating in Japan at significant levels, e.g. similar to the quantity imported in 1989 (56,6 million). If such a quantity would be sold in the Community market at the same prices charged by the German subsidiary of the exporter during the investigation period, this would result in substantial downward pressure on prices in the Community market and corresponding losses of turnover and market share.
- (68) The quantity imported from Japan in 1989 would presently represent a market share of approximately 7,2 %. This market share is too significant to be without any impact on the situation of the Community industry. It was, however, not possible to establish with precision what the effect of the removal of the measures would be on such factors as market shares, profitability and employment of the Community industry, as much would depend on uncertain factors such as the growth of consumption in the Community and the general price depression which may be caused by the resumption of importation of significant quantities.
- (69) A global analysis of some specific aspects of the main regional markets in the Community was made to assess the impact of the importation of significant quantities of disposable flint lighters originating in Japan at prices which significantly undercut the Community price is likely to have on the Community industry.
- (70) It was established that competition on the German market was fierce as major distributors and, in particular, supermarket chains usually select one or two suppliers per product offered in their outlets and thus exercise downward pressure on the prices of these suppliers. In this situation even minimal price undercutting precludes the Community industry's access to distribution networks representing a large number of

consumers. The effects of future price undercutting would therefore be significant (in terms of loss of market share and loss of profitability since it would most likely last for an extended period of time as access to the distribution network is normally granted for long contract periods.

- (71) It was also established that at producer level prices in the United Kingdom were relatively low and the Community producers were not well established in this market. In these circumstances, future price undercutting would impair the penetration of Community producers' disposable flint lighters in this already difficult market and further reduce the profitability of their sales.
- (72) Competition in the French market was found to be important due to the presence of manufacturing plants of two major Community producers but price depression appeared less important than in e.g. Germany and the UK. Future and increased price undercutting would, however, be likely to bring about greater price depression and a loss of market share.
- (73) It was also established that two Community producers have production plants in Spain and are well established in that market. It was found that a very substantial part of the Spanish market is supplied by non-Community producers, as Spain was the second largest importing Member State in 1995, and prices were low compared to France and Germany. As one of the producers established in Spain indicated that further rationalisation and cost reduction in its production plant was not possible, a loss of a substantial market share or a price war in the Spanish market is likely to result in closure of its plant, especially if this loss were matched by a similar development in the nearby, important French market.

## 7. Volume and prices of overall imports

- (74) As stated above, the Japanese exporter decided to supply the Community market with products manufactured in Mexico, on which anti-dumping measures were imposed in March 1997. Therefore, the remedial effect of the measure imposed in 1991 was much smaller than it would have been under normal circumstances.
- (75) In addition, overall imports of disposable flint lighters increased by 74 % from 1992 to the investigation period, an increase much higher than the increase of consumption during that period. As a result, the market share of these imports increased from 33,5 % in 1992 to 53 % in 1995 and dropped to 46,3 % in 1996.

(76) As shown by the successive anti-dumping measures imposed from 1992 to 1998, there has been a continuous influx of low-priced and dumped imports from third countries in the Community market. As a result prices on the Community market have continuously dropped to reach low levels: in a growing market the prices of the Community industry nevertheless decreased by 8 % from 1992 to the investigation period.

## G. COMMUNITY INTEREST

### 1. Community industry

(77) The Community industry has for almost a decade been suffering from low-priced and dumped imports of disposable flint lighters. The objective of the definitive duty under review, to re-establish fair competition in the Community market between the Community producers and their exporting counterparts in third countries, has not been fully met as is shown by subsequent developments: Tokai itself set up a production plant in Mexico and started exporting from there to the European Community at dumped prices, while other third countries — more particularly China, the Philippines and Thailand — also resorted to dumping. As a result the Community industry has not been able to recover entirely, despite its efforts to reduce costs and to benefit from economies of scale.

(78) The Community industry consists of two multinational groups selling several products other than disposable flint lighters and a relatively small producer, which combines the production of disposable flint lighters with a trading company.

(79) The Community industry has been making considerable efforts to improve its productivity in recent years in an attempt to obtain the lowest possible cost of production and to enhance its competitiveness in this price sensitive market. Rationalisation efforts were made: the two producing groups have rationalised their production process and adapted their structures, the third producer's efforts were primarily based on the realisation of economies of scale. New investments were also made to improve productivity. However, given that export sales increased much faster than sales in the Community and export sales represent more than half of the Community producers' sales, the investments in production capacity were primarily made for the purpose of supplying markets other than the Community market.

(80) Although no closure of production plants occurred, this appears due to a strategic approach of the producers concerned, supported by the existence of anti-dumping measures concerning disposable flint lighters and the development of their export sales. In this regard, it should be noted that all three producers have profitable activities in other sectors, which provide enough financial resources to maintain their production plants for disposable flint lighters for some time. It cannot, however, be ruled out that the effects of a discontinuation of an anti-dumping measure will provoke the closure of one or more of the production plants.

(81) In view of the above, the effectiveness of the Community's measures designed to re-establish fair and open market conditions and to protect the Community industry against an unfair trading practice is at stake. This major consideration apart, there is a serious risk that Community producers put an end to production at one or more plants, if the anti-dumping measure were allowed to lapse and subsequently injurious dumping of large quantities of disposable flint lighters originating in Japan would occur.

### 2. Importers

(82) As the exporter did not report any direct sales to unrelated parties in the European Community and no reaction was received from any importer after the publication of the notice of initiation, no unrelated importers of Tokai's lighters originating in Japan could be identified.

(83) As regards Tokai's subsidiary in Germany, which is the sole importer of disposable flint lighters originating in Japan, it should be noted that it employed a very limited number of people as compared to the Community industry. The impact on this importer of maintaining the measure under review is therefore likely to be minimal.

### 3. Consumers

(84) In the original investigation, the importers alleged that the interests of consumers would be adversely affected by anti-dumping measures on disposable flint lighters. However, in the present investigation, no representations of consumers associations were received and there is otherwise no reason to assume that a change of circumstances has occurred which could invalidate the arguments used in previous investigations to reject this allegation.

**H. REPEAL OF ANTI-DUMPING MEASURE**

- (85) On the basis of these facts, the Commission concluded that there was likelihood of recurrence of injurious dumping and in April 1999, made the second of two proposals to impose a definitive anti-dumping duty on imports of gas-fuelled, non-refillable pocket flint lighters originating in Japan. However, the appropriate majority in the Council was not achieved to adopt a Regulation on the basis of either Commission proposal.
- (86) Article 11(2) of the Basic Regulation provides that a definitive anti-dumping measure shall expire five years from its imposition, unless it is determined in a review that the expiry would be likely to lead to a continuation or recurrence of dumping and injury. If an expiry review is carried out, the anti-dumping measure remains in force pending the outcome of the review.
- (87) In the present case, therefore, the result of the Council deciding not to adopt a Regulation on the basis of a Commission proposal would have the consequence that the review proceeding remaining open and the existing measure remaining in force for an unlimited period of time.
- (88) Moreover, Article 11(5) of the Basic Regulation provides that a review shall be carried out expeditiously and shall normally be concluded within 12 months of the date of initiation of the review.
- (89) In these circumstances, the Commission considers that the anti-dumping duty on gas-fuelled, non-refillable pocket flint lighters originating in Japan should be repealed in order to avoid both an undue duration of the review and the remaining in force of the anti-dumping measure for an indefinite period of time.

**I. FINAL PROVISIONS**

- (90) All interested parties cooperating with the investigation, the complainants, the exporter and the Japanese government, received disclosure in writing of the essential facts and considerations on the basis of which the Commis-

sion intended to recommend that the definitive measure be repealed.

- (91) The complainant producers objected to the intended course of action arguing that the circumstances had not changed and that in their opinion the anti-dumping duty should be maintained.
- (92) Taking into account that the anti-dumping duty on imports originating in the Republic of Korea imposed by the Regulation by which the definitive anti-dumping duty on disposable flint lighters originating in Japan was also imposed has meanwhile lapsed, provision should be made to remove the references to the anti-dumping duty on imports from the Republic of Korea from the Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. Regulation (EEC) No 3433/91 is hereby repealed insofar as it imposes a definitive anti-dumping duty on imports of gas-fuelled, non-refillable pocket flint lighters falling within CN code ex 9613 10 00 originating in Japan.
2. Regulation (EEC) No 3433/91 is hereby amended as follows:
  - (i) In Article 1(1) the terms 'originating in Japan, the People's Republic of China and the Republic of Korea' shall be replaced by 'originating in the People's Republic of China'.
  - (ii) Article 1(2) shall be replaced by the following:
    - '2. The amount of duty shall be EUR 0,065 per lighter.'

*Article 2*

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

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

Done at Brussels, 24 January 2000.

*For the Council*  
*The President*  
J. GAMA

**COUNCIL REGULATION (EC) No 175/2000  
of 24 January 2000**

**reimposing a definitive anti-dumping duty on imports of leather handbags originating in the People's Republic of China and sold for export to the Community by certain exporting producers and amending Regulation (EC) No 1567/97**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community<sup>(1)</sup>, and in particular Article 11 (4) thereof,

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

Whereas:

**A. PREVIOUS PROCEDURE**

(1) By Regulation (EC) No 1567/97<sup>(2)</sup> (hereinafter referred to as 'the definitive Regulation'), the Council imposed a definitive anti-dumping duty of 38 % on imports of leather handbags originating in the People's Republic of China (hereinafter referred to as 'the PRC') with the exception of imports from several exporting producers for which the Council imposed individual duty rates.

**B. PRESENT PROCEDURE**

(2) The Commission subsequently received five applications to initiate a 'new exporter' review of the definitive Regulation, pursuant to Article 11 (4) of Regulation (EC) No 384/96 (hereinafter referred to as 'the Basic Regulation'). These applications were lodged by Gainth Industrial Ltd, Macia Company Ltd, Yen Sheng Factory Ltd, Dongguan All Be Right Leathern Products Co. Ltd and Panyu Simone Handbag Ltd (hereinafter referred to as 'the applicants'). The applicants claimed that they met the conditions for individual treatment, that they were not related to any of the exporting producers subject to the existing measures with regard to the product concerned, that they had not exported the product concerned to the Community during the period of investigation on which the anti-dumping measures were based, i.e. the period from 1 April 1995 to 31 March 1996 (hereinafter referred to as 'the original investigation period'), but that they had exported the product concerned to the Community subsequently.

(3) The Commission examined the evidence submitted by the applicants, and considered it sufficient to justify the initiation of a review pursuant to Article 11(4) of the Basic Regulation. After consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EC) No 152/1999<sup>(3)</sup>, a review of the definitive Regulation with regard to the five applicants and commenced its investigation.

The Regulation initiating the review also repealed the anti-dumping duty imposed by the definitive Regulation with regard to imports of the product concerned, produced and exported to the Community by the applicants, and directed customs authorities, pursuant to Article 14(5) of the Basic Regulation, to take appropriate steps to register such imports.

(4) The product concerned by the review was the same product as that described in Article 1 (2) of the definitive Regulation, namely, bags, whether or not with shoulder strap, including those without handle, with outer surface of leather, of composition leather or patent leather, designed primarily to contain small objects for personal use, such as keys, purses, make-up and cigarettes, regardless of their size and form.

(5) The Commission officially advised the authorities of the exporting country. Furthermore, it gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(6) The Commission sent questionnaires to the applicants. All five applicants submitted replies to the questionnaire and two of them also requested market economy status.

(7) In the course of the investigation, Dongguan All Be Right Leathern Products Co. Ltd abandoned its application for a 'new exporter' review. Consequently, subsequent to on-the-spot verifications relating to market economy status, no on-the-spot verification relating to 'new exporter' status and export prices was carried out at its premises.

(8) The Commission sought and verified all information it deemed necessary for the purposes of its investigation and carried out on-the-spot verifications at the premises of the following companies:

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30.4.1998, p. 18).

<sup>(2)</sup> OJ L 208, 2.8.1997, p. 31. Regulation as amended by Regulation (EC) No 2380/98 (OJ L 296, 5.11.1998, p. 1).

<sup>(3)</sup> OJ L 18, 23.1.1999, p. 10.

- Dongguan All Be Right Leathern Products Co. Ltd, Dongguan and Beijing, PRC,
  - York Star Co. Ltd., Hong Kong (in respect of Dongguan All Be Right Leathern Products Co. Ltd),
  - Dongguan Hsin Wan Foreign Trade Development Co., Dongguan, PRC (in respect of Dongguan All Be Right Leathern Products Co. Ltd),
  - Panyu Simone Handbag Ltd, Guangzhou, PRC,
  - Simone Accessories Collection Ltd., Kyungki-do, Republic of Korea (in respect of Panyu Simone Handbag Limited),
  - Gainth Industrial Ltd, Hong Kong,
  - Macia Company Ltd, Hong Kong, and Yen Sheng Factory Ltd, Hong Kong (as these two applicants are related, their applications were treated jointly).
- (9) The investigation period for the current investigation was 1 April 1996 to 31 December 1998 (hereinafter referred to as 'the current investigation period').

### C. 'NEW EXPORTER' STATUS

- (10) It was examined whether the applicants met the criteria for individual treatment, were not related to any of the exporting producers subject to the existing measures with regard to the product concerned, had not exported the product concerned to the Community during the original investigation period and had exported the product concerned to the Community subsequent to the original investigation period. The findings regarding the various applicants are as follows:

#### 1. Gainth Industrial Ltd

- (11) This company originally claimed that it had exported 6 400 units of the product concerned to the Community subsequent to the original investigation period. However, upon verification, this figure was found to be incorrect. The applicant admitted the inaccuracy of its first submission and eventually claimed that 86 units of the product concerned were exported to the Community. These 86 units concern one single model.
- (12) The information submitted by the applicant and verified on the spot revealed that the model concerned was a document bag or briefcase and not a handbag. Indeed, it is part of a collection composed of leather briefcases exclusively. The relevant invoice indicated 'leather document bag' and the importer declared the model concerned in the Single Administrative Document under the CN code 4202 11 90 namely, trunks, suitcases, vanity cases, executivecases, briefcases, school satchels and similar containers.
- (13) The applicant contested the classification of document bag for the model concerned and put forward two arguments:
- According to the applicant, the products actually exported corresponded to a redesigned version of the original leather briefcase collection, and the model

concerned as a consequence does not relate to a briefcase anymore.

In this respect, it should be pointed out that the applicant has submitted different versions of design specifications of the model concerned and failed to bring any indisputable evidence as to the exact physical appearance of the model actually exported. However, these design specifications do not in all cases not significantly differ from those of the other document bags or briefcases contained in the collection. Furthermore, the explanation given by the importer confirms that the model concerned is not a leather handbag, as his designer conceived the new collection as multifunctional bags to meet the need of the executive woman for a bag able to contain documents as well as small objects. Consequently, the model concerned does not meet the definition of the product concerned as set out in the definitive Regulation.

- The applicant further claimed that the model concerned falls under the definition of handbags set out in the definitive Regulation, as this definition refers to handbags 'regardless of their size and form'. The company put forward the argument that Regulation (EC) No 2380/98, which amended the definitive Regulation, expressly brought backpacks and shopping bags within the scope of the product concerned.

In this respect, it should be pointed out that Regulation (EC) No 2380/98 did not bring backpacks and shopping bags within the scope of the product concerned, but only clarified the scope of the definitive measures (see Recital 9 of that Regulation). This clarification specifies that backpacks and shopping bags have to fall under the definition of handbags (see Recital 4 above) given in the definitive Regulation in order to be covered by the definitive measures. This clarification was added in order to avoid circumvention by declaration of imports under CN codes other than the one corresponding to leather handbags.

- (14) In the light of these findings, it was concluded that the applicant failed to prove that it had actually exported leather handbags to the Community subsequent to the original investigation period.
- (15) It should also be noted that the applicant requested to take into account sales made to a German company after the current investigation period and the initiation of the present review. It should be pointed out that this information was submitted far beyond the deadline established in Regulation (EC) No 152/1999 pursuant to Article 6(2) of the Basic Regulation and after the on-the-spot verification took place, making it impossible to verify its accuracy as required by Article 6(8) of the Basic Regulation. This seems particularly important considering the large number of material errors in the information submitted by the applicant.

Moreover, it should be noted that the consistent application of Article 6(1) of the Basic Regulation by the Community institutions has been to limit findings to the investigation period unless the effects of new circumstances are manifest, undisputed, lasting, and not open to manipulation or do not stem from deliberate action of interested parties. These conditions are not met in this case. These sales are sporadic exports to the Community.

- (16) On the basis of the foregoing, the application had to be rejected as inadmissible.

## 2. Macia Company Ltd and Yen Sheng Factory Ltd

- (17) As mentioned above, these two applicants are related companies and their applications were therefore examined jointly.
- (18) In its response to a deficiency letter, Macia Company Ltd claimed that one of the manufacturing units it operated in the PRC did not have a legal identity. However, during the on-the-spot verification, it was discovered that this manufacturing unit was a Sino-foreign cooperative joint venture and consequently a separate legal entity. Consequently, misleading information on the corporate structure of the applicants has been submitted and thus, all information regarding their corporate structure is to be disregarded in accordance with Article 18 of the Basic Regulation. This resulted in the applicants' inability to prove that they complied with the conditions as laid down in Article 11(4) of the Basic Regulation.

Even though the applicants submitted subsequent to this finding a response to the part of the questionnaire relating to individual treatment in respect of this related company, this submission constituted a substantial quantity of new information which was received by the Commission far beyond the deadlines set in Regulation (EC) No 152/1999 pursuant to Article 6(2) of the Basic Regulation, rendering impossible a proper verification of it.

- (19) Moreover, even in the event this newly submitted information having been provided within a reasonable period, the Commission would not have been able to verify that the conditions for 'new exporter' status are met, as important information was missing. Particularly, the applicants were unable to prove whether the above-mentioned related joint venture had not exported the product concerned to the Community during the original investigation period. As a matter of fact, neither proper audited accounts nor documents showing the destinations of sales have been provided. In this respect, it should be noted that the related company sold the product concerned to customers located in the PRC in 1995. However, the company was subject to a restriction to sell on the domestic market. This restriction implies that a part of the production must have been exported in 1995, which is largely covered by the original investigation period, the Community being amongst possible destinations. Consequently, the final destination of these sales is unknown.

- (20) On the basis of the foregoing, the applications had to be rejected as inadmissible.

## 3. Panyu Simone Handbag Ltd

- (21) This applicant was unable to demonstrate that it had actually produced the leather handbags it sold for export to the Community during the current investigation period. Consequently, it could not be established that Panyu Simone Handbag Ltd was the exporting producer of the goods in question.
- (22) Furthermore, the applicant was unable to demonstrate to the satisfaction of the Commission that it did not sell leather handbags for export to the Community during the original investigation period.
- (23) Finally, as various products were classified under 'leather handbags' for internal purposes, the description of the product on the invoices did not coincide with the product sold. The verification of the transaction-by-transaction listing of export sales of the product concerned revealed that products such as PVC handbags and cosmetic bags had wrongly been included.
- (24) Consequently, as this applicant was unable to prove it complied with the criteria laid down in Article 11(4) of the Basic Regulation, its application had to be rejected as inadmissible.

## 4. Dongguan All Be Right Leathern Products Co. Ltd

- (25) As this applicant abandoned its application for a 'new exporter' review in the course of the investigation and consequently cooperated insufficiently, the Commission was unable to establish whether the company was indeed a 'new exporter'.

## D. CHANGE IN THE STRUCTURE OF OPERATIONS OF TWO EXPORTING PRODUCERS, BENEFITING FROM AN INDIVIDUAL DUTY RATE ESTABLISHED IN COUNCIL REGULATION (EC) No 1567/97

- (26) Two exporting producers, benefiting from individual duty rates established in Regulation (EC) No 1567/97, in the version as amended by Regulation (EC) No 2380/97, informed the Commission that after the original investigation period, they set up new factories involved in the manufacture and export to the Community of the product concerned. These companies also provided appropriate evidence requested by the Commission in this respect. The situation was examined and it was concluded that this development did not result in a significant change.

## E. RESULTS OF THE INVESTIGATION

- (27) In view of the inadmissibility of the five 'new exporter' applications, it was not necessary to establish export prices, normal values and dumping margins in respect of the applicants.

As the calculation of normal value was not necessary, no determination on market economy status pursuant to Article 2(7) of the Basic Regulation was carried out in respect of the applicants that requested such status.

- (28) Consequently, it was concluded that the country-wide ad valorem anti-dumping duty of 38 % imposed by the definitive Regulation should be reimposed in respect of the five applicants.
- (29) In respect of the two exporting producers having changed the structure of their operations as explained at Recital 26, it was concluded that the individual anti-dumping duty rates set for these companies should apply to the newly established factories.

#### F. RETROACTIVE LEVYING OF THE ANTI-DUMPING DUTY

- (30) The country-wide anti-dumping duty of 38 % applicable to the five applicants should be levied retroactively on the imports which have been subject to registration.

#### G. DISCLOSURE AND DURATION OF THE MEASURES

- (31) The applicants were informed of the facts and considerations on the basis of which it was intended to recommend the reimposition of the country-wide duty rate imposed by the definitive Regulation on their exports to the Community.
- (32) This review does not affect the date on which the definitive Regulation will expire pursuant to Article 11(2) of the Basic Regulation,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. The definitive anti-dumping duty imposed by Regulation (EC) No 1567/97 is hereby reimposed on imports of handbags with outer surface of leather, of composition leather or patent

leather falling within CN code 4202 21 00 originating in the People's Republic of China and produced by Gainth Industrial Ltd, Macia Company Ltd, Yen Sheng Factory Ltd (including its related manufacturer Dongguan Dalang Huqiu Leathers Co. Ltd), Dongguan All Be Right Leathern Products Co. Ltd and Panyu Simone Handbag Ltd.

2. For the purpose of this Regulation, leather handbags shall be understood to mean bags, whether or not with shoulder strap, including those without handle, with outer surface of leather, of composition leather or patent leather, designed primarily to contain small objects for personal use, such as keys, purses, make-up and cigarettes, regardless of their size and form.

3. The rate of duty applicable to the net, free-at-Community-frontier price before duty shall be 38 %.

4. The duty hereby imposed shall be levied on imports of the product concerned which have been registered in accordance with Article 3 of Regulation (EC) No 152/1999.

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

#### Article 2

Article 1 (2) of Regulation (EC) No 1567/97 is hereby amended as follows: The words 'Lucci Creations Ltd' shall be replaced by 'Lucci Creations Ltd including its related company Wiemer Leathersgoods Manufacturing Co. Ltd.' and the words 'Ever Trust Leather Products Shenzhen Co. Ltd.' shall be replaced by 'Ever Trust Leather Products Shenzhen Co. Ltd. including its related company Superior Leather Ltd.'

#### Article 3

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

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

Done at Brussels, 24 January 2000.

For the Council  
The President  
J. GAMA

**COUNCIL REGULATION (EC) No 176/2000**  
**of 24 January 2000**  
**amending Regulation (EC) No 1015/94 imposing a definitive anti-dumping duty on imports of**  
**television camera systems originating in Japan**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community<sup>(1)</sup>,

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

Whereas:

**A. PREVIOUS PROCEDURES**

- (1) The Council, by Regulation (EC) No 1015/94<sup>(2)</sup>, imposed a definitive anti-dumping duty on imports of television camera systems (hereinafter 'TCS') originating in Japan.
- (2) The Council specifically excluded from the scope of the anti-dumping duty the professional camera systems listed in the Annex to that Regulation (hereinafter referred to as 'the Annex'), representing high-end professional camera systems technically falling within the product definition under Article 1(2) of Regulation (EC) No 1015/94, but which cannot be regarded as broadcast cameras.
- (3) In October 1995, the Council, by Regulation (EC) No 2474/95<sup>(3)</sup>, amended the abovementioned Regulation (EC) No 1015/94, in particular as regards the like product definition and as regards certain models of professional camera systems explicitly exempted from the scope of the definitive anti-dumping duty.
- (4) In October 1997, the Council, by Regulation (EC) No 1952/97<sup>(4)</sup> amended the rates of the definitive anti-dumping duty for two companies concerned, namely for Sony Corporation and Ikegami Tsushinki in accordance with Article 12 of Regulation (EC) No 384/96. Furthermore, the Council specifically excluded from the scope of the anti-dumping duty certain new models of professional camera systems adding them to the Annex.
- (5) In January 1999, the Council, by Regulation (EC) No 193/1999<sup>(5)</sup> amended Regulation (EC) No 1015/94 adding certain successor models of professional camera

systems to its Annex and thus excluding those from the application of the definitive anti-dumping duty.

**B. INVESTIGATION CONCERNING NEW MODELS OF PROFESSIONAL CAMERA SYSTEMS**

**1. Procedure**

- (6) Subsequently, a number of Japanese exporting producers informed the Commission that they intended to introduce new models of professional camera systems into the Community market and requested to add these new models of professional camera systems and their accessories to the Annex and thus exempt them from the scope of the anti-dumping duties.
- (7) The Commission informed the Community industry accordingly and commenced an investigation limited to the determination of whether the products under consideration fall within the scope of the anti-dumping duties and whether the operational part of Regulation 1015/94 should be amended accordingly.

**2. Models under investigation**

- (8) Applications were received for the following models of professional camera systems, supplied with the relevant technical information:
  - (i) *Hitachi Denshi, Ltd.* (hereinafter 'Hitachi')
    - Camera head V-21, which was presented as a successor model of camera head Z-ONE.DA, and which was sold without a triax adaptor;
    - new accessories to V-21:
      - 1.5 inch viewfinder GM-9, which was presented as the standard viewfinder for camera head model V-21;
      - camera adaptor CA-Z31 and CA-Z32, which were presented as successor models of camera adaptors CA-Z1A and CA-Z2 already included in the Annex, and which are to be connected with the camera head model V-21;
      - camera control panel RC-Z2A and RC-Z21A, which were presented as successor models of camera control panels RC-Z2 and RC-Z21, already included in the Annex;

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30.4.1998, p. 18).

<sup>(2)</sup> OJ L 111, 30.4.1994, p. 106. Regulation as last amended by Regulation (EC) No 193/1999. (OJ L 22, 29.1.1999, p. 10).

<sup>(3)</sup> OJ L 255, 25.10.1995, p. 11.

<sup>(4)</sup> OJ L 276, 9.10.1997, p. 20.

<sup>(5)</sup> OJ L 22, 29.1.1999, p. 10.

- Camera head V-21 W, which was presented as the wide screen version of camera head V-21;
- 5 inch viewfinder GM-51, which was presented as the standard viewfinder for camera head model V-21W;

All above models are sold without a corresponding triax system or triax adaptor.

- (ii) *Olympus Winter & IBE GmbH* (hereinafter 'Olympus')
- camera control unit OTV-S6, which was represented as a model used in the medical sector and as a successor model of OTV-S5, already included in the Annex.
- (iii) *Matsushita*
- camera head AW-F575HE, which was presented as a successor model of camera head WV-F565HE already included in the Annex;
  - camera adaptor AW-AD500AE and AW-AD700BSE, which were presented as successor models of camera adaptor WV-AD500E and WV-AD700ASE already included in the Annex.
- (iv) *Ikegami Tsushinki Co, Ltd* (hereinafter 'Ikegami')
- camera head HC-400 and HC-400W, which were presented as successor models of camera head HC 390 already included in the Annex.
  - new accessories to camera head HC-400 and HC-400W
    - viewfinders VF 15-46;
    - operational control panel RCU-390;
    - camera adaptor CA-400;
    - camera control unit MA-200A;

All above models are sold without a corresponding triax system or triax adaptor.

- (v) *Victor Company of Japan, Ltd* (hereinafter 'JVC')
- camera head KY-D29WECH, which was presented as a wide-screen version of the predecessor model KY-D29ECH already included in the Annex;
  - viewfinders VF-P116WE and VF-PSSOWE, which can be connected to the abovementioned new camera head KY-D29WECH and which are

successor models of the viewfinders VF-P116, respectively VF-P550BE, already included in the Annex;

All above models are sold without a corresponding triax system or triax adaptor;

### 3. Findings

- (9) The Commission carried out a technical examination including a detailed comparison of the models concerned with their predecessor models listed in the Annex and found that they were almost completely identical. The small differences found are the result of the technical development in the TCS sector but did not affect the classification of these TCS as professional camera systems. Therefore, it was concluded that all models concerned should be excluded from the scope of the existing anti-dumping measures.
- (10) The Commission informed the Community producers and the exporters of TCS of its findings and provided them with an opportunity to present their views. On this basis and in the light of the fact that the interested parties did not object to the Commission's conclusions, all models and related equipment listed in recital (8) are professional camera systems. It follows that they should be exempted from the application of the anti-dumping duty applicable to certain television camera systems originating in Japan, and that the Annex should be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

The Annex of Regulation (EC) No 1015/94 shall be replaced by the Annex hereto.

#### *Article 2*

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

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

Done at Brussels, 24 January 2000.

*For the Council*

*The President*

J. GAMA

## ANNEX

## 'ANNEX

**List of professional camera systems not qualified as broadcast camera systems which are exempted from the measures**

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adaptors
Sony	DXC-M7PK	DXF-3000CE	CCU-M3P	RM-M7G	—	CA-325P
	DXC-M7P	DXF-325CE	CCU-M5P			CA-325AP
	DXC-M7PH	DXF-501CE	CCU-M7P			CA-325B
	DXC-M7PK/1	DXF-M3CE				CA-327P
	DXC-M7P/1	DXF-M7CE				CA-537P
	DXC-M7PH/1	DXF-40CE				CA-511
	DXC-327PK	DXF-40ACE				CA-512P
	DXC-327PL	DXF-50CE				CA-513
	DXC-327PH	DXF-601CE				VCT-U14 (!)
	DXC-327APK	DXF-40BCE				
	DXC-327APL	DXF-50BCE				
	DXC-327AH	DXF-701CE				
	DXC-537PK	DXF-WSCE (!)				
	DXC-537PL					
	DXC-537PH					
	DXC-537APK					
	DXC-537APL					
	DXC-537APH					
	EVW-537PK					
	EVW-327PK					
	DXC-637P					
	DXC-637PK					
	DXC-637PL					
	DXC-637PH					
	PVW-637PK					
	PVW-637PL					
	DXC-D30PF					
	DXC-D30PK					
	DXC-D30PL					
	DXC-D30PH					
	DSR-130PF					
	DSR-130PK					
	DSR-130PL					
	PVW-D30PF					
	PVW-D30PK					
	PVW-D30PL					
	DXC-327BPF					
	DXC-327BPK					
	DXC-327BPL					
	DXC-327BPH					
	DXC-D30WSP (!)					

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adaptors
Ikegami	HC-340	VF15-21/22	MA-200/230	RCU-240	—	CA-340
	HC-300	VF-4523	MA-200A (1)	RCU-390 (1)		CA-300
	HC-230	VF15-39				CA-230
	HC-240	VF15-46 (1)				CA-390
	HC-210	VF5040 (1)				CA-400 (1)
	HC-390	VF5040W (1)				
	LK-33					
	HDL-30MA					
	HDL-37					
	HC-400 (1)					
	HC-400W (1)					
	Hitachi	SK-H5	GM-5 (A)	RU-C1 (B)	—	—
SK-H501		GM-5-R2 (A)	RU-C1 (D)			CA-Z2
DK-7700		GM-5-R2	RU-C1			CA-Z1SJ
DK-7700SX		GM-50 (1)	RU-C1-S5			CA-Z1SP
HV-C10		GM-8A (1)	RU-C10 (B)			CA-Z1M
HV-C11		GM-9 (1)	RU-C10 (C)			CA-Z1M2
HV-C10F		GM-51 (1)	RC-C1			CA-Z1HB
Z-ONE (L)			RC-C10			CA-C10
Z-ONE (H)			RU-C10			CA-C10SP
Z-ONE			RU-Z1 (B)			CA-C10SJA
Z-ONE A (L)			RU-Z1 (C)			CA-C10M
Z-ONE A (H)			RU-Z1			CA-C10B
Z-ONE A (F)			RC-C11			CA-Z1A (1)
Z-ONE A			RU-Z2			CA-Z31 (1)
Z-ONE B (L)			RC-Z1			CA-Z32 (1)
Z-ONE B (H)			RC-Z11			
Z-ONE B (F)			RC-Z2			
Z-ONE B			RC-Z21			
Z-ONE B (M)			RC-Z2A (1)			
Z-ONE B (R)			RC-Z21A (1)			
FP-C10 (B)						
FP-C10 (C)						
FP-C10 (D)						
FP-C10 (G)						
FP-C10 (L)						
FP-C10 (R)						
FP-C10 (S)						
FP-C10 (V)						
FP-C10 (F)						
FP-C10						
FP-C10 A						
FP-C10 A (A)						
FP-C10 A (B)						

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adaptors
	FP-C10 A (C) FP-C10 A (D) FP-C10 A (F) FP-C10 A (G) FP-C10 A (H) FP-C10 A (L) FP-C10 A (R) FP-C10 A (S) FP-C10 A (T) FP-C10 A (V) FP-C10 A (W) Z-ONE C (M) Z-ONE C (R) Z-ONE C (F) Z-ONE C HV-C20 HV-C20M Z-ONE-D Z-ONE-D (A) Z-ONE-D (B) Z-ONE-D (C) Z-ONE.DA (!) V-21 (!) V-21W (!)					
Matsushita	WV-F700 WV-F700A WV-F700SHE WV-F700ASHE WV-F700BHE WV-F700ABHE WV-F700MHE WV-F350 WV-F350HE WV-F350E WV-F350AE WV-F350DE WV-F350ADE WV-F500HE (*) WV-F565HE AW-F575HE	WV-VF65BE WV-VF40E WV-VF39E WV-VF65BE (*) WV-VF40E (*) WV-VF42E	WV-RC700/B WV-RC700/G WV-RC700A/B WV-RC700A/G WV-RC36/B WV-RC36/G WV-RC37/B WV-RC37/G WV-CB700E WV-CB700AE WV-CB700E (*) WV-CB700AE (*) WV-RC700/B (*) WV-RC700/G (*) WV-RC700A/B (*) WV-RC700A/G (*) WV-RC550/G WV-RC550/B	—	—	WV-AD700SE WV-AD700ASE WV-AD700ME WV-AD250E WV-AD500E (*) AW-AD500AE AW-AD700BSE

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adaptors
JVC	KY-35E KY-27ECH KY-19ECH KY-17FITECH KY-17BECH KY-F30FITE KY-F30BE KY-27CECH KH-100U KY-D29ECH KYD29WECH (!)	VF-P315E VF-P550E VF-P10E VP-P115E VF-P400E VP-P550BE VF-P116 VF-P116WE (!) VF-P550WE (!)	RM-P350EG RM-P200EG RM-P300EG RM-LP80E RM-LP821E RM-LP35U RM-LP37U RM-P270EG	—	—	KA-35E KA-B35U KA-M35U KA-P35U KA-27E KA-20E KA-P27U KA-P20U KA-B27E KA-B20E KA-M20E KA-M27E
Olympus	MAJ-387N MAJ-387I		OTV-SX2 OTV-S5 OTV-S6			
	Camera OTV-SX					

(\*) Also called master set up unit (MSU) or master control panel (MCP).

(!) Models exempted under the condition that the corresponding triax system or triax-adaptor is not sold on the EC-market.

**COMMISSION REGULATION (EC) No 177/2000**  
**of 26 January 2000**  
**establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables <sup>(1)</sup>, as last amended by Regulation (EC) No 1498/98 <sup>(2)</sup>, and in particular Article 4 (1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

- (2) in compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 27 January 2000.

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

Done at Brussels, 26 January 2000.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 337, 24.12.1994, p. 66.

<sup>(2)</sup> OJ L 198, 15.7.1998, p. 4.

## ANNEX

**to the Commission Regulation of 26 January 2000 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	052	82,6
	204	63,9
	624	217,2
	999	121,2
0707 00 05	052	97,2
	999	97,2
0709 10 00	220	186,7
	999	186,7
0709 90 70	052	132,5
	204	118,8
	999	125,7
0805 10 10, 0805 10 30, 0805 10 50	052	59,9
	204	42,2
	212	35,7
	220	26,1
	600	48,1
	624	57,6
	999	44,9
0805 20 10	204	59,3
	999	59,3
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	88,0
	204	51,9
	624	69,9
	999	69,9
0805 30 10	052	50,2
	600	61,6
	999	55,9
0808 10 20, 0808 10 50, 0808 10 90	039	87,9
	400	86,6
	404	79,5
	524	108,5
	720	101,1
	728	68,8
	999	88,7
	064	64,8
0808 20 50	400	99,2
	720	105,5
	999	89,8

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 178/2000**

**of 26 January 2000**

**fixing the representative prices and the additional import duties for molasses in the sugar sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organization of the market in sugar <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 <sup>(2)</sup>, and in particular Articles 1(2) and 3(1) thereof,

Whereas:

- (1) Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 <sup>(3)</sup>; that price should be fixed for the standard quality defined in Article 1 of the above Regulation;
- (2) the representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality; the standard quality for molasses is defined in Regulation (EEC) No 785/68;
- (3) when the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States; under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends;
- (4) the information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small

quantity that is not representative of the market; offer prices which can be regarded as not representative of actual market trends must also be disregarded;

- (5) if information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68;
- (6) a representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price;
- (7) where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95; should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed;
- (8) application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation;
- (9) the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

*Article 1*

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 27 January 2000.

<sup>(1)</sup> OJ L 252, 25.9.1999, p. 1.

<sup>(2)</sup> OJ L 141, 24.6.1995, p. 12.

<sup>(3)</sup> OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 26 January 2000.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

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ANNEX

**fixing the representative prices and additional import duties applying to imports of molasses in the sugar sector**

*(in EUR)*

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 <sup>(?)</sup>
1703 10 00 <sup>(1)</sup>	6,84	0,08	—
1703 90 00 <sup>(1)</sup>	7,24	0,04	—

<sup>(1)</sup> For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

<sup>(?)</sup> This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

**COMMISSION REGULATION (EC) No 179/2000****of 26 January 2000****fixing the maximum export refund for white sugar for the 24th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1489/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector <sup>(1)</sup>, and in particular the second subparagraph of Article 18(5) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1489/1999 of 7 July 1999 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar <sup>(2)</sup>, requires partial invitations to tender to be issued for the export of this sugar;
- (2) pursuant to Article 9(1) of Regulation (EC) No 1489/1999 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community

and world markets in sugar, for the partial invitation to tender in question;

- (3) following an examination of the tenders submitted in response to the 24th partial invitation to tender, the provisions set out in Article 1 should be adopted;
- (4) the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 24th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1489/1999 the maximum amount of the export refund is fixed at EUR 52,483/100 kg.

*Article 2*

This Regulation shall enter into force on 27 January 2000.

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

Done at Brussels, 26 January 2000.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 252, 25.9.1999, p. 1.

<sup>(2)</sup> OJ L 172, 8.7.1999, p. 27.

**COMMISSION REGULATION (EC) No 180/2000**  
**of 26 January 2000**  
**altering the export refunds on white sugar and raw sugar exported in the natural state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector <sup>(1)</sup>, and in particular the third subparagraph of Article 18(5) thereof,

- (1) Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 113/2000 <sup>(2)</sup>;
- (2) Whereas it follows from applying the detailed rules contained in Regulation (EC) No 113/2000 to the information known to the Commission that the export

refunds at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 2038/1999, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 113/2000 are hereby altered to the amounts shown in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 27 January 2000.

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

Done at Brussels, 26 January 2000.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

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<sup>(1)</sup> OJ L 252, 25.9.1999, p. 1.

<sup>(2)</sup> OJ L 14, 20.1.2000, p. 6.

## ANNEX

**to the Commission Regulation of 26 January 2000 altering the export refunds on white sugar and raw sugar exported in its unaltered state**

Product code	Amount of refund
	— EUR/100 kg —
1701 11 90 9100	43,38 <sup>(1)</sup>
1701 11 90 9910	43,33 <sup>(1)</sup>
1701 11 90 9950	<sup>(2)</sup>
1701 12 90 9100	43,38 <sup>(1)</sup>
1701 12 90 9910	43,33 <sup>(1)</sup>
1701 12 90 9950	<sup>(2)</sup>
	— EUR/1 % of sucrose × 100 kg —
1701 91 00 9000	0,4716
	— EUR/100 kg —
1701 99 10 9100	47,16
1701 99 10 9910	49,32
1701 99 10 9950	47,10
	— EUR/1 % of sucrose × 100 kg —
1701 99 90 9100	0,4716

<sup>(1)</sup> Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 19 (4) of Regulation (EC) No 2038/1999.

<sup>(2)</sup> Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ L 255, 26. 9. 1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ L 309, 21. 11. 1985, p. 14).

**COMMISSION REGULATION (EC) No 181/2000****of 26 January 2000****amending Regulation (EC) No 1667/98 increasing to 597 718 tonnes the quantity of barley held by the Swedish intervention agency for which a standing invitation to tender for export has been opened**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1253/1999 <sup>(2)</sup>, and in particular Article 5 thereof,

Whereas:

- (1) Commission Regulation (EEC) No 2131/93 <sup>(3)</sup>, as last amended by Regulation (EC) No 39/1999 <sup>(4)</sup>, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;
- (2) Commission Regulation (EC) No 1667/98 <sup>(5)</sup>, as last amended by Regulation (EC) No 2229/1999 <sup>(6)</sup>, opened a standing invitation to tender for the export of 572 550 tonnes of barley held by the Swedish intervention agency; whereas, Sweden informed the Commission of the intention of its intervention agency to increase by 25 168 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of barley held by the Swedish intervention agency for which a standing invitation to tender for export has been opened should be increased to 597 718 tonnes;
- (3) this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in

store; whereas Annex I to Regulation (EC) No 1667/98 must therefore be amended;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 1667/98 is hereby amended as follows:

1. Article 2 is replaced by the following:

*'Article 2*

1. The invitation to tender shall cover a maximum of 597 718 tonnes of barley to be exported to all third countries with the exception of the United States of America, Canada and Mexico.

2. The regions in which the 597 718 tonnes of barley are stored are stated in Annex I to this Regulation.'

2. Annex I is replaced by the Annex hereto.

*Article 2*

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

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

Done at Brussels, 26 January 2000.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 160, 26.6.1999, p. 18.

<sup>(3)</sup> OJ L 191, 31.7.1993, p. 76.

<sup>(4)</sup> OJ L 5, 9.1.1999, p. 64.

<sup>(5)</sup> OJ L 211, 29.7.1998, p. 17.

<sup>(6)</sup> OJ L 271, 21.10.1999, p. 18.

## ANNEX

## 'ANNEX I

(tonnes)

Place of storage	Quantity
Ättersta	7 584
Boarp	2 480
Brännarp	2 624
Broddbo 1	5 997
Broddbo 2	6 076
Djurön	112 474
Ervalla	934
Falun	878
Fammarp	19 046
Funbo-Lövsta	6 579
Gamleby	2 835
Gårdsjö	2 565
Gävle	10 847
Gimo	23 901
Gistad	3 761
Gullspång	2 391
Halmstad (Engströms)	4 659
Hästholmen	5 089
Helsingborg	37 526
Hova	12 981
Kalmar	15 738
Karlshamn	87 536
Katrineholm	2 068
Köping	27 051
Laholm	2 737
Mariestad	1 956
Mjölby	1 804
Moraby	1 637
Motala	2 807
Norrtälje	10 014
Ormesta	17 988
Österbybruk	10 878
Otterbäcken	4 075
Rimforsa	21 449
Rök	4 994
Signestorp	4 517
Simonstorp	5 022
Skivarp	17 301
Söråker	13 053
Stallarholmen	2 062
Stavreviken	1 479
Stockholm (Kvarnholmen)	29 957
Tjustorp	19 849
Värnamo	5 742
Velanda	10 780
Vimmerby	3 997

**COMMISSION REGULATION (EC) No 182/2000****of 26 January 2000****amending Regulation (EC) No 2198/98 increasing to 3 800 007 tonnes the quantity of barley held by the German intervention agency for which a standing invitation to tender for export has been opened**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1253/1999 <sup>(2)</sup>, and in particular Article 5 thereof,

Whereas:

- (1) Commission Regulation (EEC) No 2131/93 <sup>(3)</sup>, as last amended by Regulation (EC) No 39/1999 <sup>(4)</sup>, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;
- (2) Commission Regulation (EC) No 2198/98 <sup>(5)</sup>, as last amended by Regulation (EC) No 2078/1999 <sup>(6)</sup>, opened a standing invitation to tender for the export of 3 300 006 tonnes of barley held by the German intervention agency; whereas, Germany informed the Commission of the intention of its intervention agency to increase by 500 001 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of barley held by the German intervention agency for which a standing invitation to tender for export has been opened should be increased to 3 800 007 tonnes;
- (3) this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in

store; whereas Annex I to Regulation (EC) No 2198/98 must therefore be amended;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 2198/98 is hereby amended as follows:

1. Article 2 is replaced by the following:

*'Article 2*

1. The invitation to tender shall cover a maximum of 3 800 007 tonnes of barley for export to third countries, with the exception of the United States of America, Canada and Mexico.

2. The regions in which the 3 800 007 tonnes of barley are stored are stated in Annex I to this Regulation.'

2. Annex I is replaced by the Annex hereto.

*Article 2*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 26 January 2000.

*For the Commission*

Franz FISCHLER

*Member of the Commission*<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.<sup>(2)</sup> OJ L 160, 26.6.1999, p. 18.<sup>(3)</sup> OJ L 191, 31.7.1993, p. 76.<sup>(4)</sup> OJ L 5, 9.1.1999, p. 64.<sup>(5)</sup> OJ L 277, 14.10.1998, p. 9.<sup>(6)</sup> OJ L 256, 1.10.1999, p. 37.

## ANNEX

## 'ANNEX I

*(tonnes)*

Place of storage	Quantity
Schleswig-Holstein/Hamburg/Niedersachsen/ Bremen/Nordrhein-Westfalen	1 139 925
Hessen/Rheinland-Pfalz/Baden-Württemberg/ Saarland/Bayern	294 816
Berlin/Brandenburg/Mecklenburg-Vorpommern	1 165 851
Sachsen/Sachsen-Anhalt/Thüringen	1 199 415'

**COMMISSION REGULATION (EC) No 183/2000****of 26 January 2000****amending Regulation (EC) No 1067/1999 increasing to 422 709 tonnes the quantity of common wheat of breadmaking quality held by the Danish intervention agency for which a standing invitation to tender for export has been opened**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1253/1999 <sup>(2)</sup>, and in particular Article 5 thereof,

Whereas:

- (1) Commission Regulation (EEC) No 2131/93 <sup>(3)</sup>, as last amended by Regulation (EC) No 39/1999 <sup>(4)</sup>, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;
- (2) Commission Regulation (EC) No 1067/1999 <sup>(5)</sup>, as last amended by Regulation (EC) No 2050/1999 <sup>(6)</sup>, opened a standing invitation to tender for the export of 200 000 tonnes of common wheat of breadmaking quality held by the Danish intervention agency. Denmark informed the Commission of the intention of its intervention agency to increase by 222 709 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of common wheat of breadmaking quality held by the Danish intervention agency for which a standing invitation to tender for export has been opened should be increased to 422 709 tonnes;
- (3) this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in

store; whereas Annex I to Regulation (EC) No 1067/1999 must therefore be amended;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 1067/1999 is hereby amended as follows:

1. Article 2 is replaced by the following:

*'Article 2*

1. The invitation to tender shall cover a maximum of 422 709 tonnes of common wheat of breadmaking quality to be exported to all third countries with the exception of the United States of America, Canada and Mexico.

2. The regions in which the 422 709 tonnes of common wheat of breadmaking quality are stored are stated in Annex I to this Regulation.'

2. Annex I is replaced by the Annex hereto.

*Article 2*

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

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

Done at Brussels, 26 January 2000.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 160, 26.6.1999, p. 18.

<sup>(3)</sup> OJ L 191, 31.7.1993, p. 76.

<sup>(4)</sup> OJ L 5, 9.1.1999, p. 64.

<sup>(5)</sup> OJ L 130, 26.5.1999, p. 9.

<sup>(6)</sup> OJ L 255, 30.9.1999, p. 13.

## ANNEX

## 'ANNEX I

*(tonnes)*

Place of storage	Quantity
Jylland	237 684
Sjælland	168 000
Fyn	17 025

**COMMISSION REGULATION (EC) No 184/2000**  
**of 26 January 2000**  
**concerning the classification of certain goods in the Combined Nomenclature**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff <sup>(1)</sup> as last amended by Commission Regulation (EC) No 2626/1999 <sup>(2)</sup>, and in particular Article 9 thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to the said Regulation, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has set down the general rules for the interpretation of the Combined Nomenclature. Those rules also apply to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific Community provisions, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to the said general rules, the goods described in column 1 of the table annexed to the present Regulation must be classified under the CN codes indicated in column 2, by virtue of the reasons set out in column 3.
- (4) It is accepted that binding tariff information issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature

and which does not conform to the provisions of Regulation, can continue to be invoked, under the provisions in Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code <sup>(3)</sup>, as last amended by European Parliament and Council Regulation (EC) No 955/1999 <sup>(4)</sup>, for a period of three months by the holder.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

*Article 1*

The goods described in column 1 of the annexed table is classified within the Combined Nomenclature under the CN codes indicated in column 2 of the said table.

*Article 2*

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

*Article 3*

This Regulation shall enter into force on the 21st day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 26 January 2000.

*For the Commission*  
Frederik BOLKESTEIN  
*Member of the Commission*

<sup>(1)</sup> OJ L 256, 7.9.1987, p. 1.

<sup>(2)</sup> OJ L 321, 14.12.1999, p. 3.

<sup>(3)</sup> OJ L 302, 19.10.1992, p. 1.

<sup>(4)</sup> OJ L 119, 7.5.1999, p. 1.

## ANNEX

Description of goods	Classification (CN) code	Reason
(1)	(2)	(3)
<p>A device, in a laptop computer-type plastic case, comprising:</p> <ul style="list-style-type: none"> <li>— an electronic processing unit,</li> <li>— a liquid crystal display (LCD)</li> <li>— a keyboard,</li> <li>— switches to control activity selection, sound volume and display contrast,</li> <li>— a loudspeaker,</li> <li>— connections for a mouse and a printer</li> </ul> <p>The device is presented together with a mouse</p> <p>The device does not have its own operating system</p> <p>The device integrates the following programs:</p> <ul style="list-style-type: none"> <li>— more than 40 fixed programs for learning languages, writing, reading and arithmetic, and for performing logic exercises,</li> <li>— office programs, e.g. word processing and a daily planner,</li> <li>— creation and execution of programmes written in BASIC</li> </ul> <p>The features of the device may be expanded by using additional cartridges</p> <p>The device is aimed at children from nine years upwards</p>	<p>9503 90 32</p>	<p>Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 1p) to Section XVI and the wording of CN-codes 9503, 9503 90 and 9503 90 32</p> <p>Even though most of the programs are in a two player mode and the correct answers are scored, the device cannot be regarded as a parlour game, but as an educational toy given the numerous in-built programs for learning</p>

**COMMISSION REGULATION (EC) No 185/2000**  
**of 26 January 2000**  
**on the authorisation of transfers between the quantitative limits of textiles and clothing products**  
**originating in the People's Republic of China**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries <sup>(1)</sup>, as last amended by Commission Regulation (EC) No 1072/1999 <sup>(2)</sup>, and in particular Article 7 thereof,

- (1) Whereas Article 5 of the Agreement between the European Economic Community and the People's Republic of China on trade in textile products <sup>(3)</sup>, initialled on 9 December 1988, and as last amended by an Agreement in the form of an Exchange of Letters <sup>(4)</sup>, initialled on 6 December 1999, and Article 8 of the Agreement between the European Community and the People's Republic of China <sup>(5)</sup> initialled on 19 January 1995 on trade in textile products not covered by the MFA bilateral Agreement, and as last amended by an Agreement in the form of an Exchange of Letters initialled on 6 December 1999, provide that transfers may be agreed between quota years;
- (2) Whereas the People's Republic of China has made a request on 10 December 1999;
- (3) Whereas the transfers requested by the People's Republic of China fall within the limits of the flexibility provisions referred to in Article 5 of the Agreement between the European Economic Community and the People's

Republic of China on trade in textile products, initialled on 9 December 1988, and Article 8 of the Agreement between the European Community and the People's Republic of China initialled on 19 January 1995 on trade in textile products not covered by the MFA bilateral Agreement, and as set out in Annex VIII to Regulation (EEC) No 3030/93;

- (4) Whereas it is appropriate to grant the request;
- (5) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Textile Committee provided for in Article 17 of Regulation (EEC) No 3030/93,

HAS ADOPTED THIS REGULATION:

*Article 1*

Transfers between the quantitative limits for textile goods originating in the People's Republic of China are authorised for the quota year 1999 as detailed in the Annex to this Regulation.

*Article 2*

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

It shall apply to the quota year 1999.

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

Done at Brussels, 26 January 2000.

*For the Commission*

Pascal LAMY

*Member of the Commission*

<sup>(1)</sup> OJ L 275, 8.11.1993, p. 1.

<sup>(2)</sup> OJ L 134, 28.5.1999, p. 1.

<sup>(3)</sup> Approved by Council Decision 88/656/EEC (OJ L 380, 31.12.1988, p. 1).

<sup>(4)</sup> Approved by Council Decision 1999/876/EC (OJ L 345, 31.12.1999, p. 1).

<sup>(5)</sup> Approved by Council Decision 95/155/EC (OJ L 104, 6.5.1995, p. 1).

## ANNEX

- Category 20/39: advance use of 274 020 kilograms from year 2000 quantitative limits,
  - Category 156: advance use of 118 800 kilograms from year 2000 quantitative limits,
  - Category 157: advance use of 282 850 kilograms from year 2000 quantitative limits.
-

**COMMISSION REGULATION (EC) No 186/2000**  
**of 26 January 2000**  
**on the issue of import licenses on 30 January 2000 for sheepmeat and goatmeat products pursuant**  
**to GATT-WTO non-country specific tariff quotas for the first quarter of 2000**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1439/95 of 26 June 1995 laying down detailed rules for the application of Council Regulation (EC) No 2467/98 as regards the import and export of products in the sheepmeat and goatmeat sector <sup>(1)</sup>, as last amended by Regulation (EC) No 344/1999 <sup>(2)</sup>, and in particular Article 16(4) thereof,

Whereas:

- (1) Regulation (EC) No 1439/95 laid down, in Title II B, detailed rules, in respect of imports of products falling within CN codes 0104 10 30, 0104 10 80, 0104 20 90 and 0204 pursuant to GATT/WTO non-country specific tariff quotas; provision should be made, pursuant to Article 16(4) of Regulation (EC) No 1439/95, for determining the extent to which import licences may be issued in connection with applications lodged in respect of the first quarter of 2000.
- (2) In cases where the quantities in respect of which licence applications have been lodged exceed the quantities which may be imported pursuant to Article 15 of Regu-

lation (EC) No 1439/95, such quantities should be reduced by a single percentage figure in accordance with Article 16(4)(b) of that Regulation.

- (3) All the licence applications may be granted in cases where the quantities in respect of which licence applications have been lodged do not exceed the quantities provided for in Regulation (EC) No 1439/95.
- (4) Applications relating to products originating in Namibia have been lodged in Germany,

HAS ADOPTED THIS REGULATION:

*Article 1*

Germany shall, on 30 January 2000, issue the import licences provided for in Title II B of Regulation (EC) No 1439/95 and applied for from 1 to 10 January 2000. For products falling within CN code 0204, the quantities applied for originating in Namibia shall be granted in full.

*Article 2*

This Regulation shall enter into force on 27 January 2000.

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

Done at Brussels, 26 January 2000.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 143, 27.6.1995, p. 7.

<sup>(2)</sup> OJ L 43, 17.2.1999, p. 6.

**COMMISSION REGULATION (EC) No 187/2000**  
**of 26 January 2000**  
**amending the import duties in the rice sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice <sup>(1)</sup>, as last amended by Regulation (EC) No 2072/98 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector <sup>(3)</sup>, as last amended by Regulation (EC) No 2831/98 <sup>(4)</sup>, and in particular Article 4(1) thereof,

Whereas:

(1) Import duties in the rice sector have been fixed by Commission Regulation (EC) No 118/2000 <sup>(5)</sup>;

(2) Article 4(1) of Regulation (EC) No 1503/96 provides that if during the period of application, the average import duty calculated differs by EUR 10 per tonne from the duty fixed, a corresponding adjustment is to be made; whereas such a difference has arisen; whereas it is therefore necessary to adjust the import duties fixed in Regulation (EC) No 118/2000,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annexes I and II to Regulation (EC) No 118/2000 are hereby replaced by Annexes I and II to this Regulation.

*Article 2*

This Regulation shall enter into force on 27 January 2000.

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

Done at Brussels, 26 January 2000.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 329, 30.12.1995, p. 18.

<sup>(2)</sup> OJ L 265, 30.9.1998, p. 4.

<sup>(3)</sup> OJ L 189, 30.7.1996, p. 71.

<sup>(4)</sup> OJ L 351, 29.12.1998, p. 25.

<sup>(5)</sup> OJ L 14, 20.1.2000, p. 19.

## ANNEX I

## Import duties on rice and broken rice

(EUR/t)

CN code	Duties (€)				
	Third countries (except ACP and Bangladesh) (1)	ACP (1) (2) (3)	Bangladesh (4)	Basmati India and Pakistan (5)	Egypt (6)
1006 10 21	(7)	76,44	111,06		173,10
1006 10 23	(7)	76,44	111,06		173,10
1006 10 25	(7)	76,44	111,06		173,10
1006 10 27	(7)	76,44	111,06		173,10
1006 10 92	(7)	76,44	111,06		173,10
1006 10 94	(7)	76,44	111,06		173,10
1006 10 96	(7)	76,44	111,06		173,10
1006 10 98	(7)	76,44	111,06		173,10
1006 20 11	181,20	59,08	86,26		135,90
1006 20 13	181,20	59,08	86,26		135,90
1006 20 15	181,20	59,08	86,26		135,90
1006 20 17	207,87	68,41	99,59	0,00	155,90
1006 20 92	181,20	59,08	86,26		135,90
1006 20 94	181,20	59,08	86,26		135,90
1006 20 96	181,20	59,08	86,26		135,90
1006 20 98	207,87	68,41	99,59	0,00	155,90
1006 30 21	(7)	146,86	212,59		341,25
1006 30 23	(7)	146,86	212,59		341,25
1006 30 25	(7)	146,86	212,59		341,25
1006 30 27	(7)	146,86	212,59		341,25
1006 30 42	(7)	146,86	212,59		341,25
1006 30 44	(7)	146,86	212,59		341,25
1006 30 46	(7)	146,86	212,59		341,25
1006 30 48	(7)	146,86	212,59		341,25
1006 30 61	(7)	146,86	212,59		341,25
1006 30 63	(7)	146,86	212,59		341,25
1006 30 65	(7)	146,86	212,59		341,25
1006 30 67	(7)	146,86	212,59		341,25
1006 30 92	(7)	146,86	212,59		341,25
1006 30 94	(7)	146,86	212,59		341,25
1006 30 96	(7)	146,86	212,59		341,25
1006 30 98	(7)	146,86	212,59		341,25
1006 40 00	(7)	45,38	(7)		105,00

(1) The duty on imports of rice originating in the ACP States is applicable, under the arrangements laid down in Council Regulation (EC) No 1706/98 (OJ L 215, 1.8.1998, p. 12) and amended Commission Regulation (EC) No 2603/97 (OJ L 351, 23.12.1997, p. 22).

(2) In accordance with Regulation (EC) No 1706/98, the duties are not applied to products originating in the African, Caribbean and Pacific States and imported directly into the overseas department of Réunion.

(3) The import levy on rice entering the overseas department of Réunion is specified in Article 11(3) of Regulation (EC) No 3072/95.

(4) The duty on imports of rice not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Council Regulation (EEC) No 3491/90 (OJ L 337, 4.12.1990, p. 1) and amended Commission Regulation (EEC) No 862/91 (OJ L 88, 9.4.1991, p. 7).

(5) No import duty applies to products originating in the OCT pursuant to Article 101(1) of amended Council Decision 91/482/EEC (OJ L 263, 19.9.1991, p. 1).

(6) For husked rice of the Basmati variety originating in India and Pakistan, a reduction of EUR/t 250 applies (Article 4a of amended Regulation (EC) No 1503/96).

(7) Duties fixed in the Common Customs Tariff.

(8) The duty on imports of rice originating in and coming from Egypt is applicable under the arrangements laid down in Council Regulation (EC) No 2184/96 (OJ L 292, 15.11.1996, p. 1) and Commission Regulation (EC) No 196/97 (OJ L 31, 1.2.1997, p. 53).

## ANNEX II

## Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (EUR/tonne)	( <sup>1</sup> )	207,87	455,00	181,20	455,00	( <sup>1</sup> )
2. Elements of calculation:						
(a) Arag cif price (EUR/tonne)	—	330,46	289,43	379,70	305,34	—
(b) fob price (EUR/tonne)	—	—	—	349,72	275,36	—
(c) Sea freight (EUR/tonne)	—	—	—	29,98	29,98	—
(d) Source	—	USDA	USDA	Operators	Operators	—

(<sup>1</sup>) Duties fixed in the Common Customs Tariff.

**COMMISSION REGULATION (EC) No 188/2000**  
**of 26 January 2000**  
**repealing Regulation (EC) No 2767/1999 introducing a system of licences for imports of tomatoes**  
**from Morocco**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 95/35/EC of 19 December 1994 on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Morocco on the regime for imports into the European Community of tomatoes and courgettes originating in and imported from Morocco <sup>(1)</sup>, and in particular Article 3 thereof,

Whereas:

- (1) Commission Regulation (EC) No 2767/1999 <sup>(2)</sup> introduces a system of licences for imports of fresh tomatoes falling within CN code 0702 00 00 originating in and imported from Morocco.
- (2) As a result of the consultations held between Morocco and the European Community in accordance with the last paragraph of point 4 of the abovementioned Agreement in the form of an Exchange of Letters, and taking account in particular of the mechanism ensuring that total exports of tomatoes from Morocco to the Community in the period 1 November 1999 to 31 March 2000 do not exceed 145 676 tonnes, the

Commission is able to abolish the aforementioned system of import licences.

- (3) This Regulation should apply from the day of its publication to facilitate ongoing trade and provision should be made to enable the security referred to in Article 2(2) of Regulation (EC) No 2767/1999 to be released in respect of quantities covered by licences unused before the entry into force of this Regulation.
- (4) The Management Committee for fresh Fruit and Vegetables has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. Regulation (EC) No 2767/1999 is repealed.
2. At the request of parties concerned, import licences issued under Regulation (EC) No 2767/1999 shall be cancelled in respect of quantities unused on the date of entry into force of this Regulation. In such cases the security shall be released.

*Article 2*

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

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

Done at Brussels, 26 January 2000.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 48, 3.3.1995, p. 21.

<sup>(2)</sup> OJ L 333, 24.12.1999, p. 3.

**COMMISSION REGULATION (EC) No 189/2000**  
**of 26 January 2000**  
**amending the corrective amount applicable to the refund on cereals**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Commission Regulation (EC) No 1253/1999 <sup>(2)</sup>, and in particular Article 13(8) thereof,

- (1) Whereas the corrective amount applicable to the refund on cereals was fixed by Commission Regulation (EC) No 31/2000 <sup>(3)</sup>, as amended by Regulation (EC) No 120/2000 <sup>(4)</sup>;
- (2) Whereas, on the basis of today's cif prices and cif forward delivery prices, taking foreseeable developments on the market into account, the corrective amount at present applicable to the refund on cereals should be altered;

- (3) Whereas the corrective amount must be fixed according to the same procedure as the refund; whereas it may be altered in the period between fixings,

HAS ADOPTED THIS REGULATION:

*Article 1*

The corrective amount referred to in Article 1(1)(a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to the export refunds fixed in advance in respect of the products referred to, except for malt, is hereby altered to the amounts set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 27 January 2000.

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

Done at Brussels, 26 January 2000.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 160, 26.6.1999, p. 18.

<sup>(3)</sup> OJ L 4, 7.1.2000, p. 14.

<sup>(4)</sup> OJ L 14, 20.1.2000, p. 24.

## ANNEX

## to the Commission Regulation of 26 January 2000 altering the corrective amount applicable to the refund on cereals

(EUR/t)

Product code	Destination <sup>(1)</sup>	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6	6th period 7
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	01	0	-1,00	-2,00	-3,00	-4,00	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	03	0	0	0	0	0	0	0
	02	0	0	0	0	0	—	—
1002 00 00 9000	01	0	0	0	0	0	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	01	0	0	0	0	0	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	01	0	0	0	0	0	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	01	0	0	0	0	0	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	01	0	0	0	0	0	—	—
1101 00 15 9130	01	0	0	0	0	0	—	—
1101 00 15 9150	01	0	0	0	0	0	—	—
1101 00 15 9170	01	0	0	0	0	0	—	—
1101 00 15 9180	01	0	0	0	0	0	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	01	0	0	0	0	0	—	—
1102 10 00 9700	01	0	0	0	0	0	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	01	0	0	0	0	0	—	—
1103 11 10 9400	01	0	0	0	0	0	—	—
1103 11 10 9900	—	—	—	—	—	—	—	—
1103 11 90 9200	01	0	0	0	0	0	—	—
1103 11 90 9800	—	—	—	—	—	—	—	—

(<sup>1</sup>) The destinations are identified as follows:

01 all third countries,

02 other third countries,

03 Mauritania, Mali, Niger, Senegal, Burkina Faso, The Gambia, Guinea-Bissau, Guinea, Cape Verde, Sierra Leone, Liberia, Côte d'Ivoire, Ghana, Togo, Chad, Central African Republic, Benin, Cameroon, Equatorial Guinea, São Tomé and Príncipe, Gabon, Congo, Democratic Republic of the Congo, Rwanda, Burundi, Angola, Zambia, Malawi, Mozambique, Namibia, Botswana, Zimbabwe, Lesotho, Swaziland, Seychelles, The Comoros, Madagascar, Djibouti, Ethiopia, Eritrea and Mauritius.

NB: The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ L 214, 30.7.1992, p. 20).

## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 10 December 1999

on financial aid from the Community towards the eradication of swine vesicular disease in Italy in 1999

(notified under document number C(1999) 4244)

(Only the Italian text is authentic)

(2000/59/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field <sup>(1)</sup>, as last amended by Commission Decision 94/370/EC <sup>(2)</sup>, and in particular Article 3 thereof,

Whereas:

(1) outbreaks of swine vesicular disease occurred in Italy in 1999; whereas this disease represents a serious danger to Community pig stocks; whereas with a view to contributing towards the speedy eradication of the disease the Community is able to contribute to expenditure incurred by the Member States for losses suffered;

(2) the Italian authorities have reported that they took the requisite steps, including the measures listed in Article 3(2) of Decision 90/424/EEC, as soon as the outbreak of swine vesicular disease was officially confirmed;

(3) the Community financial contribution should be paid upon confirmation that the measures have been implemented and the authorities have supplied all the information requested within the time limits laid down;

(4) the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

*Article 1*

Italy may receive financial assistance from the Community relating to outbreaks of swine vesicular disease which occurred in the course of 1999.

Subject to checks, the Community's financial contribution shall be:

- 50 % of the costs incurred by Italy in compensating owners for the slaughter and the destruction of pigs and for the destruction of products obtained from pork,
- 50 % of the costs incurred by Italy in the cleaning, disinsection and disinfection of holdings and equipment,
- 50 % of the costs incurred by Italy in compensating owners for the destruction of contaminated feedingstuffs and equipment.

*Article 2*

1. Subject to the checks to be carried out, the Community contribution shall be granted after the supporting documents have been submitted.

2. The documents referred to in paragraph 1 shall be:

<sup>(1)</sup> OJ L 224, 18.8.1990, p. 19.

<sup>(2)</sup> OJ L 168, 2.7.1994, p. 31.

- (a) an epidemiological report on each holding on which pigs have been slaughtered. The report shall contain information on:
- (i) infected holdings:
- location and address,
  - date on which the disease was suspected and the date on which it was confirmed,
  - number of pigs slaughtered and destroyed, with date,
  - method of slaughter and destruction,
  - type and number of samples collected and tested when the disease was suspected; results of the tests,
  - type and number of samples taken and tested during the depopulation of the infected holdings; results of the tests,
  - presumed origin of the infection following complete epidemiological analysis;
- (ii) holdings in contact with an infected holding:
- as in (i), first, third, fourth and sixth indents,
  - infected holding (outbreak) with which contact has been confirmed or suspected; nature of the contact;
- (b) a financial report including the list of beneficiaries and their addresses, the number of animals slaughtered, the date of slaughter and the amount paid out (excluding VAT and other taxes).

*Article 3*

The application for payment, together with the supporting documents referred to in Article 2, shall be submitted to the Commission before 1 May 2000.

*Article 4*

1. The Commission, in collaboration with the competent national authorities, may carry out on-the-spot checks to ensure that the measures and assisted expenditure have been carried out.

The Commission shall inform the Member States of the outcome of the checks.

2. Articles 8 and 9 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy <sup>(1)</sup>, as last amended by Regulation (EC) No 1287/95 <sup>(2)</sup>, shall apply *mutatis mutandis*.

*Article 5*

This Decision is addressed to the Italian Republic.

Done at Brussels, 10 December 1999.

*For the Commission*

David BYRNE

*Member of the Commission*

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<sup>(1)</sup> OJ L 94, 28.4.1970, p. 13.

<sup>(2)</sup> OJ L 125, 8.6.1995, p. 1.

**COMMISSION DECISION**  
**of 21 December 1999**  
**approving the plan for the monitoring and control of salmonella in fowl presented by Austria**

*(notified under document number C(1999) 4691)*

**(Only the German text is authentic)**

(2000/60/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/117/EEC of 17 December 1992 concerning measures for protection against specified zoonoses and specified zoonotic agents in animals and products of animal origin in order to prevent outbreaks of food-borne infections and intoxications <sup>(1)</sup> as last amended by Directive 1999/72/EC <sup>(2)</sup>, and in particular Article 8(3) thereof,

Whereas:

- (1) in accordance with Article 8(2) of Directive 92/117/EEC, Austria forwarded by letters dated 17 May 1999 and 29 October 1999 a plan for the monitoring and control of salmonella in fowl in Austria;
- (2) the abovementioned plan satisfies the Community requirements on the subject, in particular those set out in Article 8(2) of Directive 92/117/EEC, and must therefore be approved;
- (3) the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

*Article 1*

The plan for the monitoring and control of salmonella presented by Austria is hereby approved.

*Article 2*

Austria shall bring into force by 31 March 2000 the laws, regulations and administrative provisions necessary to implement the plan referred to in Article 1.

*Article 3*

This Decision is addressed to the Republic of Austria.

Done at Brussels, 21 December 1999.

*For the Commission*

David BYRNE

*Member of the Commission*

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<sup>(1)</sup> OJ L 62, 15.3.1993, p. 38.

<sup>(2)</sup> OJ L 210, 10.8.1999, p. 12.

**COMMISSION DECISION**  
**of 21 December 1999**  
**amending Decision 93/436/EEC laying down special conditions governing imports of fishery**  
**products originating in Chile**

*(notified under document number C(1999) 4749)*

**(Text with EEA relevance)**

(2000/61/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/493/EEC of 22 July 1991 laying down the health conditions for the production and the placing on the market of fishery products <sup>(1)</sup>, as last amended by the Directive 97/79/EC <sup>(2)</sup>, and in particular Article 11 thereof,

Whereas:

- (1) the health certificate for fishery products originating in Chile and intended for export to the European Community was established by Commission Decision 93/436/EEC of 30 June 1993 laying down special conditions governing imports of fishery products originating in Chile <sup>(3)</sup>, as last amended by Decision 96/674/EC <sup>(4)</sup>;
- (2) the conditions for the import of bivalve molluscs, echinoderms tunicates and marine gastropods originating in Chile are laid down by Commission Decision 96/675/EC <sup>(5)</sup>;
- (3) the legislative references cited in the model of the health certificate included in Annex A to Decision 93/436/EEC

contain certain mistakes, and it is therefore necessary to modify it;

- (4) the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

*Article 1*

Annex A to Decision 93/436/EEC shall be replaced by the Annex hereto.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 21 December 1999.

*For the Commission*

David BYRNE

*Member of the Commission*

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<sup>(1)</sup> OJ L 268, 24.9.1991, p. 15.

<sup>(2)</sup> OJ L 24, 30.1.1998, p. 31.

<sup>(3)</sup> OJ L 202, 12.8.1993, p. 31.

<sup>(4)</sup> OJ L 313, 3.12.1996, p. 29.

<sup>(5)</sup> OJ L 313, 3.12.1996, p. 38.

ANNEX

ANNEX A

HEALTH CERTIFICATE

for fishery and aquaculture products originating in Chile and intended for export to the European Community

Reference No: .....

Country of dispatch: CHILE

Competent authority: Servicio Nacional de Pesca (Sernapesca)

I. Details identifying the fishery products

- Description of fishery/aquaculture products <sup>(1)</sup>: .....
- species (scientific name): .....
- presentation of product and type of treatment <sup>(2)</sup>: .....
- Code number (where available): .....
- Type of packaging: .....
- Number of packages: .....
- Net weight: .....
- Requisite storage and transport temperature: .....

II. Origin of products

Name(s) and official approval number(s) of establishment(s), factory vessel(s), or cold store(s) approved or freezer vessel(s) registered by Sernapesca for export to the European Community: .....

III. Destination of products

The products are dispatched .....  
from: .....  
(place of dispatch)

to: .....  
(country and place of destination)

by the following means of transport: .....

Name and address of dispatcher: .....

Name of consignee and address at place of destination: .....

IV. Health attestation

— The official inspector hereby certifies that the fishery or aquaculture products specified above:

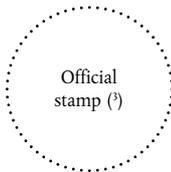
(1) were caught and handled on board vessels in accordance with the health rules laid down by Directive 92/48/EEC;

<sup>(1)</sup> Delete where applicable.

<sup>(2)</sup> Live, refrigerated, frozen, salted, smoked, preserved, etc.

- (2) were landed, handled and where appropriate packaged, prepared, processed, frozen, thawed and stored hygienically in compliance with the requirements laid down in Chapters II, III, and IV of the Annex to Directive 91/493/EEC;
- (3) have undergone health controls in accordance with Chapter V of the Annex to Directive 91/493/EEC;
- (4) are packaged, marked, stored and transported in accordance with Chapters VI, VII and VIII of the Annex to Directive 91/493/EEC;
- (5) do not come from toxic species or species containing biotoxins;
- (6) have satisfactorily undergone the organoleptic, parasitological, chemical and microbiological checks laid down for certain categories of fishery products by Directive 91/493/EEC and in the implementing decisions thereto;
- (7) in addition, where the fishery products are frozen or processed bivalve molluscs: the molluscs were obtained from approved production areas laid down by the Annex to Commission Decision 96/675/EC of 25 November 1996 laying down special conditions for the import of live bivalve molluscs, echinoderms, tunicates, and marine gastropods originating in Chile.
- The undersigned official inspector hereby declares that he is aware of the provisions of Directive 91/493/EEC, Directive 92/48/EEC and Decision 96/675/EC.

Done at ..... , on .....  
(Place) (Date)



.....  
Signature of official inspector (³)

.....  
(name in capital letters, capacity and qualifications of person signing)

(³) The colour of the stamp and signature must be different from that of the other particulars in the certificate.

**COMMISSION DECISION**  
**of 21 December 1999**  
**approving the plan presented by Portugal for the surveillance of African swine fever**

*(notified under document number C(1999) 4783)*

**(Only the Portuguese text is authentic)**

**(Text with EEA relevance)**

(2000/62/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-community trade in certain live animals and products with a view to the completion of the internal market <sup>(1)</sup>, as last amended by Council Directive 92/118/EEC <sup>(2)</sup>, and, in particular, Article 10(4) thereof,

Whereas:

- (1) By Commission Decision 1999/789/EC <sup>(3)</sup>, Portugal was requested to submit the Commission a plan for the surveillance of African swine fever in the regions Alentejo and Algarve.
- (2) The plan submitted by Portugal provides for additional suitable measures to prevent the spread of African swine fever.
- (3) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

*Article 1*

The plan submitted by Portugal for the surveillance of African swine fever is hereby approved.

*Article 2*

Portugal shall bring into force the laws, regulations and administrative provisions for implementing the plan referred to in Article 1.

*Article 3*

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 21 December 1999.

*For the Commission*

David BYRNE

*Member of the Commission*

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<sup>(1)</sup> OJ L 224, 18.8.1990, p. 29.

<sup>(2)</sup> OJ L 62, 15.3.1993, p. 49.

<sup>(3)</sup> OJ L 310, 4.12.1999, p. 71.

**COMMISSION DECISION**  
**of 18 January 2000**  
**amending Decision 96/627/EC implementing Article 2 of Council Directive 77/311/EEC on the**  
**driver-perceived noise level of wheeled agricultural or forestry tractors**

*(notified under document number C(1999) 3546)*

**(Text with EEA relevance)**

(2000/63/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/311/EEC of 29 March 1977 on the approximation of the laws of the Member States relating to the driver-perceived noise level of wheeled agricultural or forestry tractors <sup>(1)</sup>, as last amended by Directive 97/54/EC <sup>(2)</sup> of the European Parliament and of the Council, and in particular Article 2 thereof,

Whereas:

- (1) It has proved technically impossible in the case of virtually all tractors without cabs to meet the expiry date for the transitional period laid down by Commission Decision 96/627/EC <sup>(3)</sup>. It is necessary in those circumstances to postpone the end of the transitional period laid down by that Decision for those vehicles.
- (2) The measures provided for in this Decision are in conformity with the opinion delivered by the Committee on the Adaptation to Technical Progress of the Directives on the removal of technical barriers to trade in agricultural or forestry tractors,

HAS ADOPTED THIS DECISION:

*Article 1*

Article 1 of Decision 96/627/EC is replaced by the following:

*'Article 1*

The transitional period referred to in Article 2(2) of Directive 77/311/EEC shall expire on:

- 1 October 2001 for all new types of tractor,
- 1 October 2003 for all new tractors.'

*Article 2*

Member States shall adopt the provisions necessary to comply with this Decision by 30 September 2001 at the latest. They shall forthwith inform the Commission thereof.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 18 January 2000.

*For the Commission*

Erkki LIIKANEN

*Member of the Commission*

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<sup>(1)</sup> OJ L 105, 28.4.1977, p. 1.

<sup>(2)</sup> OJ L 277, 10.10.1997, p. 24.

<sup>(3)</sup> OJ L 282, 1.11.1996, p. 72.

**COMMISSION DECISION**  
**of 25 January 2000**  
**amending Decision 1999/789/EC concerning certain protection measures relating to African swine fever in Portugal**

(notified under document number C(2000) 189)

(Text with EEA relevance)

(2000/64/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

*Article 1*

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-community trade in certain live animals and products with a view to the completion of the internal market <sup>(1)</sup>, as last amended by Directive 92/118/EEC <sup>(2)</sup>, and, in particular, Article 10(4) thereof,

the Annex of Decision 1999/789/EC is replaced by the Annex to this Decision.

*Article 2*

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market <sup>(3)</sup>, as last amended by Directive 92/118/EEC, and in particular, Article 9(4) thereof,

Article 2(1) of Decision 1999/789/EC is replaced by the following paragraph:

Having regard to Council Directive 80/215/EEC <sup>(4)</sup> of 22 January 1980, on animal health problems affecting intra-Community trade in meat products as last amended by Directive 91/687/EEC <sup>(5)</sup>, and in particular Article 7bis(2) thereof,

‘1. Live pigs originating from a holding situated in the areas described in the Annex can not be sent to other areas of Portugal unless the animals:

Whereas:

- (1) an outbreak of African swine fever occurred in Portugal, region of Alentejo, municipality of Almodovar on 15 November 1999;
- (2) by Decision 1999/789/EC <sup>(6)</sup> the Commission adopted certain disease control measures to prevent spreading of the disease;
- (3) by Decision 2000/62/EC <sup>(7)</sup> the Commission approved a plan for the surveillance of African swine fever submitted by Portugal, including further disease control measures;
- (4) in the light of the evolution of the situation Commission Decision 1999/789/EC must be amended;
- (5) the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

- come from a holding where no live pigs have been introduced during the 30-day period immediately prior to the dispatch of the pigs in question,
- have been included in a pre-movement serological testing programme carried out within ten days prior to transport where no antibodies to the African swine fever virus have been detected; the pre-movement testing programme for the consignment in question must be designed to give approximately 95 % confidence of detecting seropositive animals at a 5 % prevalence level,
- have undergone a clinical examination on the holding of origin within 24 hours prior to transport. All pigs on the holding of origin shall be examined and related facilities must be inspected. The animals shall be identified by ear tags at the holding of origin so that they can be traced back to the holding of origin,
- shall be transported directly from the holding of origin to the holding or slaughterhouse of destination. In case of transport of pigs for breeding or production, the holding of destination must be located in the regions of Alentejo or Algarve. In case of transport of slaughter pigs, the slaughterhouse of destination must be designated by the competent veterinary authorities and must be located in the regions of Alentejo or Algarve or in the municipalities of Mafra, Loures, Sintra or Montijo. The means of transport shall be cleaned and disinfected with an officially approved disinfectant before loading and immediately after unloading and shall be officially sealed. Slaughter pigs shall be kept separated from any other consignment of pigs during the slaughter operations.’

<sup>(1)</sup> OJ L 224, 18.8.1990, p. 29.

<sup>(2)</sup> OJ L 62, 15.3.1993, p. 49.

<sup>(3)</sup> OJ L 395, 30.12.1989, p. 13.

<sup>(4)</sup> OJ L 47, 21.2.1980, p. 4.

<sup>(5)</sup> OJ L 377, 31.12.1991, p. 161.

<sup>(6)</sup> OJ L 310, 4.12.1999, p. 71.

<sup>(7)</sup> See page 65 of this Official Journal.

*Article 3*

The following paragraph is added to Article 2 of Decision 1999/789/EC:

'4. By derogation from paragraph 2, second indent, the competent veterinary authorities may decide that in case of slaughter pigs the serological tests are, carried out on samples taken at slaughter, in accordance with the surveillance plan approved by Decision 2000/62/EC, if previous serological controls carried out in the holding of origin, in relation to the implementation of this Decision have given negative result'.

*Article 4*

In Article 6 of Decision 1999/789/EC the date '31 January 2000' is replaced by the date '31 March 2000'.

*Article 5*

The Member States shall amend the measures which they apply to trade so as to bring them into compliance with this Decision. They shall immediately inform the Commission thereof.

*Article 6*

This Decision is addressed to the Member States.

Done at Brussels, 25 January 2000.

*For the Commission*

David BYRNE

*Member of the Commission*

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*ANNEX***Municipalities in Alentejo**

Mértola

Almodôvar

Castro Verde

Ourique

**Municipalities in Algarve**

Loulé

Alcoutim

Silves

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