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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 121/2006

of 23 January 2006

amending Regulation (EC) No 1858/2005 imposing a definitive anti-dumping duty on imports of steel ropes and cables originating, *inter alia*, in India

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

A. PREVIOUS PROCEDURE

- (1) In August 1999, by Regulation (EC) No 1796/1999⁽²⁾, the Council imposed a definitive anti-dumping duty on imports of steel ropes and cables (the product concerned) originating, *inter alia*, in India.
- (2) In November 2005, following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 1858/2005⁽³⁾ decided that the anti-dumping measures applicable to imports of the product concerned originating, *inter alia*, in India should be maintained.
- (3) By Decision 1999/572/EC⁽⁴⁾, the Commission accepted a price undertaking from an Indian company, Usha Martin Industries and Usha Beltron Ltd. This company has changed its name in the meantime and is now known as Usha Martin Ltd (UML). The change of name has in no way affected the activities of the company.
- (4) As a result, imports into the Community of the product concerned of Indian origin, produced by UML or by any other related company worldwide, and of a type covered

by the undertaking (the product covered by the undertaking), were exempt from the definitive anti-dumping duties.

- (5) In this regard, it should be noted that certain types of steel wire rope currently produced by UML were not exported to the Community during the investigation period which led to the imposition of definitive anti-dumping measures and were not, therefore, within the scope of the exemption afforded by the undertaking. Accordingly, such steel-wire ropes were liable to payment of the anti-dumping duty when they entered into free circulation in the Community.

B. FAILURE TO COMPLY WITH THE UNDERTAKING

- (6) The undertaking offered by UML obliges it (and any related company worldwide) to, *inter alia*, export the product covered by the undertaking to the first independent customer in the Community at or above certain minimum import price levels (MIPs) laid down in the undertaking. These price levels eliminate the injurious effects of dumping. In the case of resale in the Community to the first independent customer by related importers, the resale prices of the product covered by the undertaking, after appropriate adjustments for selling, general and administrative costs and a reasonable profit, must also be at levels which eliminate the injurious effects of dumping.
- (7) The terms of the undertaking also oblige UML to provide the Commission with regular and detailed information in the form of a quarterly report of its sales (and resale by its related parties in the Community) of the product concerned originating in India to the Community. Such reports are intended to include the products covered by the undertaking which benefit from the exemption to the anti-dumping duty as well as those types of steel-wire ropes not covered by the undertaking and which are therefore liable to the anti-dumping duty.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 217, 17.8.1999, p. 1.

⁽³⁾ OJ L 299, 16.11.2005, p. 1.

⁽⁴⁾ OJ L 217, 17.8.1999, p. 63. Decision as amended by Regulation (EC) No 1678/2003 (OJ L 238, 25.9.2003, p. 13).

- (8) Unless otherwise indicated, it is assumed by the Commission that the sales reports of UML (and the reports of resale of related companies established in the Community) are, as submitted, complete, exhaustive and correct in all particulars.

- (9) It was also acknowledged by UML that, with regard to the exemption to the anti-dumping duties afforded by the undertaking, such exemption is conditional upon presentation to Community customs services of an 'undertaking invoice'. Moreover, the company undertook not to issue such undertaking invoices for the sale of those types of products concerned, not covered by the undertaking and which are therefore liable to the anti-dumping duty.
- (10) It is also a condition of the undertaking that the terms and provisions thereof apply to any related company to UML, worldwide.
- (11) For the purposes of ensuring compliance with the undertaking, UML also agreed to provide all information considered necessary by the Commission and to allow on-the-spot verification visits at its premises, and those of any related companies, in order to verify the accuracy and veracity of data submitted in the said quarterly reports.
- (12) In this regard, verification visits were carried out at the premises of UML in India and at those of a related company to UML in Dubai, i.e. Brunton Wolf Wire Ropes FZE (BWWR).
- (13) The verification visit to the Indian company showed that significant volumes of the product concerned, not covered by the undertaking, had been omitted from the quarterly undertaking sales reports submitted to the Commission. Furthermore, the goods in question had been sold by UML to its related importers in the United Kingdom and Denmark and included on undertaking invoices.
- (14) The verification visit to the Dubai company showed that certain steel-wire ropes had been exported to the Community from Dubai and declared at import into the Community as having United Arab Emirates origin when in fact they were of Indian origin and therefore liable to the anti-dumping measures applicable to imports of steel-wire ropes originating in India. The goods in question had not been reported on the quarterly undertaking sales report nor, as was admitted by the company, had anti-dumping duty been paid on them. The goods had also been resold to the first independent customer in the Community at prices below the MIPs.
- (15) Commission Decision 2006/38/EC ⁽¹⁾, sets out in more detail the nature of the breaches found.

- (16) In view of these breaches, acceptance of the undertaking offered by Usha Martin Industries and Usha Beltron Ltd, now known as Usha Martin Ltd (TARIC additional code A024) has been withdrawn by Decision 2006/38/EC. A definitive anti-dumping duty should therefore be imposed forthwith on imports of the product concerned exported to the Community by the company concerned.
- (17) In accordance with Article 8(9) of the basic Regulation, the rate of the anti-dumping duty must be established on the basis of the facts established within the context of the investigation which led to the undertaking. As the investigation in question was concluded by a final determination as to dumping and resulting injury by Regulation (EC) No 1796/1999, it is considered appropriate that the definitive anti-dumping rate should be set at the level and in the form imposed by that Regulation, namely 23,8 % of the net, cif free-at-Community-frontier price, before duty.

C. AMENDMENT OF REGULATION (EC) No 1858/2005

- (18) In view of the above, Regulation (EC) No 1858/2005 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The table in Article 2(1) of Regulation (EC) No 1858/2005 shall be replaced by the following table:

Country	Company	TARIC additional code
'South Africa	Haggie Lower Germiston Road Jupiter PO Box 40072 Cleveland South Africa	A023'

Article 2

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

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

Done at Brussels, 23 January 2006.

For the Council
The President
J. PRÖLL

⁽¹⁾ See page 54 of this Official Journal.

COUNCIL REGULATION (EC) No 122/2006**of 23 January 2006****amending Regulation (EC) No 74/2004 imposing a definitive countervailing duty on imports of cotton-type bedlinen originating in India**

THE COUNCIL OF THE EUROPEAN UNION,

was imposed on companies which either did not make themselves known or did not cooperate with the investigation.

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community⁽¹⁾ (the basic Regulation),

Having regard to Article 2 of Council Regulation (EC) No 74/2004 of 13 January 2004 imposing a definitive countervailing duty on imports of cotton-type bedlinen originating in India⁽²⁾,

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

Whereas:

(2) Article 2 of Regulation (EC) No 74/2004 stipulates that where any new exporting producer in India provides sufficient evidence to the Commission that it did not export to the Community the products described in Article 1(1) of that Regulation during the investigation period (1 October 2001 to 30 September 2002) (the first criterion), that it is not related to any of the exporters or producers in India which are subject to the anti-subsidy measures imposed by that Regulation (the second criterion) and that it has actually exported to the Community the products concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Community (the third criterion), then Article 1(3) of that Regulation may be amended by granting the new exporting producer the duty rate applicable to the cooperating companies not included in the sample, i.e. 7,6 %.

(3) Council Regulation (EC) No 2143/2004⁽³⁾ added 15 companies to the list of Indian exporters/producers listed in the Annex to Regulation (EC) No 74/2004.

A. PREVIOUS PROCEDURE

(1) By Regulation (EC) No 74/2004 the Council imposed a definitive countervailing duty on imports into the Community of cotton-type bedlinen falling within CN codes ex 6302 21 00 (TARIC codes 6302 21 00 81, 6302 21 00 89), ex 6302 22 90 (TARIC code 6302 22 90 19), ex 6302 31 00 (TARIC code 6302 31 00 90) and ex 6302 32 90 (TARIC code 6302 32 90 19), originating in India. Given the large number of cooperating parties, a sample of Indian exporting producers was selected and individual duty rates ranging from 4,4 to 10,4 % were imposed on the companies included in the sample, while other cooperating companies not included in the sample were attributed a duty rate of 7,6 %. A duty rate of 10,4 %

B. NEW EXPORTERS/PRODUCERS' REQUESTS

(4) Thirteen Indian companies have applied to be granted the same status (newcomer status) as the companies cooperating in the original investigation not included in the sample.

(5) Four of the Indian companies requesting newcomer status did not reply to a questionnaire and one did not supply additional information requested after it had submitted an incomplete reply to the questionnaire. It was therefore not possible to verify whether these companies fulfilled the criteria set out in Article 2 of Regulation (EC) No 74/2004, and their requests had to be rejected.

⁽¹⁾ OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 12, 17.1.2004, p. 1. Regulation as last amended by Regulation (EC) No 2143/2004 (OJ L 370, 17.12.2004, p. 1).

⁽³⁾ OJ L 370, 17.12.2004, p. 1.

- (6) The remaining eight companies replied to the questionnaire which was intended to verify that they complied with the provisions of Article 2 of Regulation (EC) No 74/2004.
- (7) The evidence provided by five of the abovementioned Indian exporters/producers is considered sufficient to grant them the duty rate applicable to the cooperating companies not included in the sample (i.e. 7,6 %) and consequently for them to be added to the list of exporters/producers in the Annex (the Annex) to Regulation (EC) No 74/2004.
- (8) As far as the remaining three Indian exporters/producers are concerned, two exported the product concerned to the Community during the original investigation period (i.e. from 1 October 2001 to 30 September 2002) and one was unable to provide any evidence that it did not export to the Community during the investigation period.
- (9) Under these circumstances, it was considered that for the three companies referred to above, at least one of the criteria set out in Article 2 of Regulation (EC) No 74/2004, i.e. the first criterion, was not fulfilled. Therefore, their claims had to be rejected.
- (10) Companies for which newcomer status was not granted were informed of the reasons of this decision and given an opportunity to make their views known in writing.
- (11) All arguments and submissions made by interested parties were analysed and duly taken into account where warranted,

HAS ADOPTED THIS REGULATION:

Article 1

The following companies shall be added to the list of exporters/producers from India listed in the Annex to Regulation (EC) No 74/2004:

Alok Industries Limited	Mumbai
Texel Industries	Chennai
Textrade International Private Limited	Mumbai
Welspun India Limited	Mumbai
Yellows Spun and Linens Private Limited	Mumbai

Article 2

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

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

Done at Brussels, 23 January 2006.

For the Council
The President
J. PRÖLL

COUNCIL REGULATION (EC) No 123/2006

of 23 January 2006

amending Regulation (EC) No 1338/2002 imposing a definitive countervailing duty on imports of sulphanilic acid originating in India and amending Regulation (EC) No 1339/2002 imposing a definitive anti-dumping duty on imports of sulphanilic acid originating, *inter alia*, in India

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community⁽²⁾ (the basic anti-subsidy Regulation), and in particular Articles 13 and 19 thereof,

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

Whereas:

A. PROCEDURE

1. Previous investigations and existing measures

- (1) In July 2002, the Council, by Regulation (EC) No 1338/2002⁽³⁾ imposed definitive countervailing duties on imports of sulphanilic acid originating in India. On the same day, the Council, by Regulation (EC) No 1339/2002⁽⁴⁾, imposed definitive anti-dumping duties on imports of sulphanilic acid originating in the People's Republic of China and India (the measures).
- (2) Within the framework of these proceedings, the Commission, by Decision 2002/611/EC⁽⁵⁾ accepted a

price undertaking offered by the Indian company, i.e. Kokan Synthetics & Chemicals Pvt Ltd. (the company).

- (3) In June 2003, the Commission initiated an anti-absorption reinvestigation pursuant to Article 12 of the basic anti-dumping Regulation, concerning imports of sulphanilic acid originating in the People's Republic of China (PRC)⁽⁶⁾.
- (4) In December 2003, the company informed the Commission that it wished to withdraw its undertaking voluntarily. Accordingly, the Commission Decision accepting the undertaking was repealed by Decision 2004/255/EC⁽⁷⁾.
- (5) In February 2004, an anti-absorption investigation concerning imports of the sulphanilic acid originating in the PRC was concluded by Council Regulation (EC) No 236/2004⁽⁸⁾, which increased the rate of the definitive anti-dumping duty for the PRC from 21 % to 33,7 % (the anti-absorption investigation).

2. Request for an interim review

- (6) In December 2004, after conclusion of the anti-absorption investigation, the company lodged a request for a partial interim review pursuant to Article 11(3) of the basic anti-dumping Regulation and Article 19 of the basic anti-subsidy Regulation respectively, limited in scope to the examination of the acceptability of the reinstatement of its undertaking.
- (7) The company argued that its original wish to withdraw the undertaking followed from the fact that after imposition of measures in 2002, Chinese exporters absorbed the anti-dumping duties imposed, which resulted in a price depression and made the undertaking unworkable. The company also referred to the fact that as a result of the conclusion of the absorption review, the duty level on imports from the PRC was increased, which had allowed market prices to rise. Therefore, the company informed the Commission that it was prepared to offer its undertaking again under the former terms and conditions, which were considered appropriate to eliminate the relevant injurious effects of dumping and subsidisation.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 461/2004.

⁽³⁾ OJ L 196, 25.7.2002, p. 1. Regulation as last amended by Regulation (EC) No 492/2004 (OJ L 80, 18.3.2004, p. 6).

⁽⁴⁾ OJ L 196, 25.7.2002, p. 11. Regulation as last amended by Regulation (EC) No 492/2004.

⁽⁵⁾ OJ L 196, 25.7.2002, p. 36.

⁽⁶⁾ OJ C 149, 26.6.2003, p. 14.

⁽⁷⁾ OJ L 80, 18.3.2004, p. 29.

⁽⁸⁾ OJ L 40, 12.2.2004, p. 17.

- (8) The company provided sufficient prima facie evidence that No structural changes had occurred in the company since the previous findings that may have an impact on the acceptability and enforceability of an undertaking.
- (9) In April 2005, pursuant to a notice published in the *Official Journal of the European Union* ⁽¹⁾, the Commission initiated a partial interim review of the anti-dumping and countervailing measures applicable to imports of sulphanilic acid originating in India, limited in scope to the examination of the acceptability of an undertaking to be offered by the company.

3. Procedure

- (10) The Commission officially advised the representatives of the exporting country, the applicant and the Community industry of the initiation of the partial interim review and gave all parties directly concerned the opportunity to make their views known in writing and to request a hearing.
- (11) The company re-offered formally its original undertaking.
- (12) The Commission sought and verified all the information it deemed necessary for the purpose of examining the re-acceptability of this undertaking.

B. FINDINGS OF THE INVESTIGATION

- (13) The investigation has shown that No structural changes occurred in the company since the original investigation that may have a negative impact on the acceptability and workability of an undertaking. Furthermore, experience gained during the application of the original undertaking has shown that the company respected the terms of the undertaking and that the undertaking could effectively be monitored by the Commission.
- (14) Nonetheless, it should be noted that significant differences were observed in the price of key ingredients in the production of sulphanilic acid since the original investigation, in particular aniline, and its key feedstock, benzene. In view of the above, the applicant agreed to index the minimum price originally offered in order to address the cyclical nature of sulphanilic acid prices in a way which reasonably eliminates the risk of injurious dumping. In view of the fact that a publicly available and independent database providing reliable international price data exists for benzene but not for aniline and given further the strong correlation between the price of benzene and the price of aniline, the indexation was based on the price of benzene.

- (15) The Community industry argued that the applicant should not be allowed to choose the form of the measures and in particular to respect a minimum import price only when the prevailing market prices suit the company. Indeed, a company should not be allowed to have the form of the measures changed based on the evolution of the market. However, due account should be taken of the exceptional circumstances of the case. In this regard, it should be noted that the anti-absorption investigation revealed that the decrease in market prices at the time the company voluntarily withdrew its undertaking was prompted by the absorption of the anti-dumping duty on imports of sulphanilic acid originating in the PRC. Therefore, and in view of the changed circumstances resulting from the outcome of the anti-absorption investigation, the company's wish to reinstall its undertaking is considered appropriate.

- (16) The Community industry further claimed that the undertaking offer should be accepted only following a full interim review, since the market evolution which might justify a new undertaking might justify as well a review of the company's dumping margin. In this regard, it should be noted that the current investigation is limited in scope to the examination of acceptability of an undertaking to be offered by the company and that No request for an interim review with a different scope has been received. Therefore, the claim had to be rejected.
- (17) A user requested that the anti-dumping duty be lowered or, alternatively that the limited availability of purified sulphanilic acid on the Community market be dealt with by introducing a system of quotas. Here again, in view of the limited scope of the current investigation, the claim had to be rejected.

C. UNDERTAKING

- (18) In view of the above, the undertaking was accepted by the Commission in Decision 2006/37/EC (*).
- (19) Further to enable the Commission effectively to monitor compliance by the company with the undertaking, when the request for release for free circulation is presented to the relevant customs authority, exemption from the duties will be conditional upon the presentation of a commercial invoice containing at least the elements listed in the Annex. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that shipments correspond to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping and countervailing duty will instead be payable.

⁽¹⁾ OJ C 101, 27.4.2005, p. 34.

(*) See page 52 of this Official Journal.

- (20) Further to ensure the effective respect of the undertaking, importers should be made aware that any violation of the undertaking may lead to the retrospective application of the anti-dumping and countervailing duty for the relevant transactions. Therefore, it is necessary to implement legal provisions providing for the incurrence of a customs debt at the level of the appropriate anti-dumping and countervailing duty whenever one or more conditions for the exemption are not respected. A customs debt should therefore be incurred whenever the declarant has chosen to release the goods for free circulation, i.e. without collection of anti-dumping and countervailing duty, and one or several conditions of that undertaking are found to have been violated.
- (21) In the event of a breach, the anti-dumping and countervailing duty may be recovered, provided that the Commission has withdrawn the acceptance of the undertaking in accordance with Article 8(9) of the basic anti-dumping Regulation or Article 13(9) of the basic anti-subsidy Regulation, by referring to that particular transaction and, accordingly, by declaring the relevant undertaking invoice as invalid. Therefore, pursuant to Article 14(7) of the basic anti-dumping Regulation and Article 24(7) of the basic anti-subsidy Regulation, customs authorities should inform the Commission immediately whenever indications of a violation of the undertaking are found.
- (22) It should be noted that in the event of a breach or withdrawal of the undertaking, or in case of withdrawal of acceptance of the undertaking by the Commission, the anti-dumping and countervailing duty imposed in accordance with Article 9(4) of the basic anti-dumping Regulation and Article 15(1) of the basic anti-subsidy Regulation shall automatically apply pursuant to Article 8(9) of the former Regulation and Article 13(9) of the latter Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The following paragraph shall be inserted in Article 1 of both Regulation (EC) No 1338/2002 and Regulation (EC) No 1339/2002:

‘3. Notwithstanding paragraph 1, the definitive duty shall not apply to imports released for free circulation in accordance with Article 2.’

2. The following Article shall be inserted in Regulation (EC) No 1338/2002:

‘Article 2

1. Imports declared for release into free circulation which are invoiced by companies from which undertakings are accepted by the Commission and whose names are listed in Commission Decision 2006/37/EC (*), as from time to time amended, shall be exempt from the duties imposed by Article 1, on condition that:

- they are manufactured, shipped and invoiced directly by the said companies to the first independent customer in the Community, and
- such imports are accompanied by a valid undertaking invoice. An undertaking invoice is a commercial invoice containing at least the elements and the declaration stipulated in the Annex, and
- the goods declared and presented to customs correspond precisely to the description on the undertaking invoice.

2. A customs debt shall be incurred at the time of acceptance of the declaration for release into free circulation whenever it is established, in respect of goods described in Article 1 and exempted from the duties under the conditions listed in paragraph 1, that one or more of such conditions is not fulfilled. The condition set out in the second indent of paragraph 1 shall be considered as not being fulfilled where the undertaking invoice is found not to comply with the provisions of the Annex or found not to be authentic or where the Commission has withdrawn the acceptance of the undertaking pursuant to Article 8(9) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (**) or Article 13(9) of the basic Regulation in a Regulation or Decision which refers to (a) particular transaction(s) and declares the relevant undertaking invoice(s) as invalid.

3. Importers shall accept as a normal trade risk, the fact that the non-fulfilment, by any party, of one or more of the conditions listed in paragraph 1 and further defined in paragraph 2 may give rise to a customs debt incurred under Article 201 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Common Customs Code (***). The customs debt incurred shall be recovered upon withdrawal by the Commission of the acceptance of the undertaking.

(*) See page 52 of this Official Journal.

(**) OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

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

3. The following Article shall be inserted in Regulation (EC) No 1339/2002:

Article 2

1. Imports declared for release into free circulation which are invoiced by companies from which undertakings are accepted by the Commission and whose names are listed in Commission Decision 2006/37/EC (*), as from time to time amended, shall be exempt from the duties imposed by Article 1, on condition that:

- they are manufactured, shipped and invoiced directly by the said companies to the first independent customer in the Community, and
- such imports are accompanied by a valid undertaking invoice. An undertaking invoice is a commercial invoice containing at least the elements and the declaration stipulated in the Annex, and
- the goods declared and presented to customs correspond precisely to the description on the undertaking invoice.

2. A customs debt shall be incurred at the time of acceptance of the declaration for release into free circulation whenever it is established, in respect of goods described in Article 1 and exempted from the duties under the conditions listed in paragraph 1, that one or more of such conditions is not fulfilled. The condition set out in the second indent of paragraph 1 shall be considered as not being fulfilled where the undertaking invoice is found not to comply with the

provisions of the Annex or found not to be authentic or where the Commission has withdrawn the acceptance of the undertaking pursuant to Article 8(9) of Regulation (EC) No 384/96 or Article 13(9) of the basic anti-subsidy Regulation in a Regulation or Decision which refers to (a) particular transaction(s) and declares the relevant undertaking invoice(s) as invalid.

3. Importers shall accept as a normal trade risk, the fact that the non-fulfilment, by any party, of one or more of the conditions listed in paragraph 1 and further defined in paragraph 2 may give rise to a customs debt incurred under Article 201 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Common Customs Code (**). The customs debt incurred shall be recovered upon withdrawal by the Commission of the acceptance of the undertaking.

4. The text in the Annex to this Regulation shall be added both to Regulation (EC) No 1338/2002 and to Regulation (EC) No 1339/2002.

(*) See page 52 of this Official Journal.

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

Article 2

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

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

Done at Brussels, 23 January 2006.

For the Council
The President
J. PRÖLL

ANNEX

'ANNEX

The following elements shall be indicated in the commercial invoice accompanying the company's sales of sulphanilic acid to the Community which are subject to an Undertaking:

1. The heading "COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING".
2. The name of the company mentioned in Article 1 of Commission Decision 2006/37/EC accepting the undertaking issuing the commercial invoice.
3. The commercial invoice number.
4. The date of issue of the commercial invoice.
5. The TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier.
6. The exact description of the goods, including:
 - Product code number (PCN) used for the purposes of the investigation and the undertaking (e.g. "PA99", "PS85" or "TA98"),
 - the technical/physical specifications of the PCN, i.e. for "PA99" and "PS85" white free flowing powder, and for "TA98" grey free-flowing powder,
 - company product code (CPC) (if applicable),
 - CN code,
 - quantity (to be given in tonnes).
7. The description of the terms of the sale, including:
 - price per tonne,
 - the applicable payment terms,
 - the applicable delivery terms,
 - total discounts and rebates.
8. Name of the company acting as an importer in the Community to which the commercial invoice accompanying goods subject to an undertaking is issued directly by the company.
9. The name of the official of the company that has issued the invoice and the following signed declaration:

"I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by [COMPANY], and accepted by the European Commission through Decision 2006/37/EC. I declare that the information provided in this invoice is complete and correct."

COMMISSION REGULATION (EC) No 124/2006
of 25 January 2006
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the

standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 26 January 2006.

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

Done at Brussels, 25 January 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

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

ANNEX

to Commission Regulation of 25 January 2006 establishing the standard import values for determining the entry price of certain fruit and vegetables

<i>(EUR/100 kg)</i>		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	84,2
	204	51,4
	212	97,4
	624	140,9
	999	93,5
0707 00 05	052	148,3
	204	101,5
	999	124,9
0709 10 00	220	68,9
	624	101,2
	999	85,1
0709 90 70	052	96,9
	204	132,8
	999	114,9
0805 10 20	052	43,8
	204	55,0
	212	59,9
	220	49,7
	624	58,2
	999	53,3
0805 20 10	204	74,4
	999	74,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	62,5
	204	89,2
	400	78,4
	464	148,0
	624	76,5
	662	32,0
	999	81,1
0805 50 10	052	55,9
	220	60,5
	999	58,2
0808 10 80	400	129,0
	404	104,0
	720	67,5
	999	100,2
0808 20 50	388	100,4
	400	93,4
	720	37,7
	999	77,2

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

COMMISSION REGULATION (EC) No 125/2006**of 24 January 2006****establishing unit values for the determination of the customs value of certain perishable goods**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾,

Having regard to Commission Regulation (EEC) No 2454/93 ⁽²⁾ laying down provisions for the implementation of Regulation (EEC) No 2913/92, and in particular Article 173(1) thereof,

Whereas:

(1) Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish unit values for the products referred to in the classification in Annex 26 to that Regulation.

(2) The result of applying the rules and criteria laid down in the abovementioned Articles to the elements communicated to the Commission in accordance with Article 173(2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 173(1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 27 January 2006.

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

Done at Brussels, 24 January 2006.

For the Commission
Günter VERHEUGEN
Vice-President

⁽¹⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 648/2005 (OJ L 117, 4.5.2005, p. 13).

⁽²⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 883/2005 (OJ L 148, 11.6.2005, p. 5).

ANNEX

Code	Description	Amount of unit values per 100 kg					
	Species, varieties, CN code	EUR LTL SEK	CYP LVL GBP	CZK MTL	DKK PLN	EEK SIT	HUF SKK
1.10	New potatoes 0701 90 50	34,72	19,92	993,09	259,08	543,21	8 700,18
		119,87	24,16	14,90	133,25	8 313,78	1 301,03
		322,99	23,79				
1.30	Onions (other than seed) 0703 10 19	23,69	13,59	677,65	176,78	370,67	5 936,71
		81,80	16,49	10,17	90,92	5 673,04	887,78
		220,40	16,23				
1.40	Garlic 0703 20 00	166,35	95,45	4 758,52	1 241,39	2 602,86	41 688,04
		574,38	115,78	71,42	638,48	39 836,53	6 234,07
		1 547,66	113,99				
1.50	Leeks ex 0703 90 00	69,23	39,73	1 980,37	516,63	1 083,24	17 349,44
		239,04	48,19	29,72	265,72	16 578,89	2 594,45
		644,10	47,44				
1.60	Cauliflowers 0704 10 00	—	—	—	—	—	—
1.80	White cabbages and red cabbages 0704 90 10	48,40	27,77	1 384,48	361,18	757,30	12 129,04
		167,12	33,69	20,78	185,76	11 590,35	1 813,79
		450,29	33,17				
1.90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) Alef var. <i>italica</i> Plenck) ex 0704 90 90	—	—	—	—	—	—
		—	—	—	—	—	—
		—	—				
1.100	Chinese cabbage ex 0704 90 90	97,22	55,78	2 780,98	725,49	1 521,16	24 363,33
		335,68	67,67	41,74	373,14	23 281,27	3 643,32
		904,49	66,62				
1.110	Cabbage lettuce (head lettuce) 0705 11 00	—	—	—	—	—	—
1.130	Carrots ex 0706 10 00	43,68	25,06	1 249,47	325,96	683,44	10 946,21
		150,82	30,40	18,75	167,65	10 460,05	1 636,91
		406,38	29,93				
1.140	Radishes ex 0706 90 90	73,86	42,38	2 112,76	551,17	1 155,66	18 509,29
		255,02	51,41	31,71	283,48	17 687,23	2 767,90
		687,16	50,61				
1.160	Peas (<i>Pisum sativum</i>) 0708 10 00	365,89	209,95	10 466,16	2 730,38	5 724,87	91 690,93
		1 263,33	254,66	157,07	1 404,31	87 618,62	13 711,56
		3 404,02	250,72				

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg					
		EUR LTL SEK	CYP LVL GBP	CZK MTL	DKK PLN	EEK SIT	HUF SKK
1.170	Beans:						
1.170.1	— Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 00	173,81 600,13 1 617,03	99,73 120,97 119,10	4 971,80 74,62	1 297,03 667,10	2 719,52 41 621,97	43 556,46 6 513,48
1.170.2	— Beans (<i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus Savi</i>) ex 0708 20 00	432,00 1 491,61 4 019,11	247,88 300,67 296,03	12 357,36 185,46	3 223,76 1 658,06	6 759,33 103 451,04	108 259,20 16 189,20
1.180	Broad beans ex 0708 90 00	—	—	—	—	—	—
1.190	Globe artichokes 0709 10 00	—	—	—	—	—	—
1.200	Asparagus:						
1.200.1	— green ex 0709 20 00	253,33 874,69 2 356,84	145,36 176,32 173,59	7 246,47 108,75	1 890,44 972,30	3 963,73 60 664,62	63 484,17 9 493,49
1.200.2	— other ex 0709 20 00	172,09 594,21 1 601,07	98,75 119,78 117,93	4 922,74 73,88	1 284,23 660,51	2 692,68 41 211,30	43 126,71 6 449,22
1.210	Aubergines (eggplants) 0709 30 00	147,55 509,46 1 372,73	84,66 102,69 101,11	4 220,67 63,34	1 101,08 566,31	2 308,66 35 333,80	36 976,03 5 529,44
1.220	Ribbed celery (<i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	83,59 288,60 777,64	47,96 58,18 57,28	2 390,96 35,88	623,75 320,81	1 307,83 20 016,17	20 946,48 3 132,36
1.230	Chantarelles 0709 59 10	334,34 1 154,41 3 110,53	191,84 232,70 229,11	9 563,80 143,53	2 494,98 1 283,23	5 231,28 80 064,40	83 785,60 12 529,39
1.240	Sweet peppers 0709 60 10	114,81 396,42 1 068,16	65,88 79,91 78,68	3 284,21 49,29	856,78 440,66	1 796,43 27 494,17	28 772,04 4 302,60
1.250	Fennel 0709 90 50	—	—	—	—	—	—
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	91,43 315,70 850,64	52,46 63,64 62,65	2 615,42 39,25	682,31 350,93	1 430,61 21 895,32	22 912,96 3 426,43
2.10	Chestnuts (<i>Castanea</i> spp.) fresh ex 0802 40 00	—	—	—	—	—	—
2.30	Pineapples, fresh ex 0804 30 00	68,81 237,58 640,15	39,48 47,89 47,15	1 968,24 29,54	513,47 264,09	1 076,60 16 477,36	17 243,18 2 578,56

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg					
		EUR LTL SEK	CYP LVL GBP	CZK MTL	DKK PLN	EEK SIT	HUF SKK
2.40	Avocados, fresh ex 0804 40 00	157,39	90,31	4 502,18	1 174,52	2 462,64	39 442,31
		543,44	109,54	67,57	604,08	37 690,54	5 898,25
		1 464,29	107,85				
2.50	Guavas and mangoes, fresh ex 0804 50	—	—	—	—	—	—
2.60	Sweet oranges, fresh:						
2.60.1	— Sanguines and semi-sanguines ex 0805 10 20	—	—	—	—	—	—
		—	—	—	—	—	—
		—	—	—	—	—	—
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamoutis, ovalis, trovita and hamlins ex 0805 10 20	—	—	—	—	—	—
		—	—	—	—	—	—
		—	—	—	—	—	—
2.60.3	— Others ex 0805 10 20	—	—	—	—	—	—
		—	—	—	—	—	—
		—	—	—	—	—	—
2.70	Mandarins (including tangerines and satsumas), fresh; clementines, wilkins and similar citrus hybrids, fresh:						
2.70.1	— Clementines ex 0805 20 10	—	—	—	—	—	—
		—	—	—	—	—	—
		—	—	—	—	—	—
2.70.2	— Monreales and satsumas ex 0805 20 30	—	—	—	—	—	—
		—	—	—	—	—	—
		—	—	—	—	—	—
2.70.3	— Mandarines and wilkins ex 0805 20 50	—	—	—	—	—	—
		—	—	—	—	—	—
		—	—	—	—	—	—
2.70.4	— Tangerines and others ex 0805 20 70 ex 0805 20 90	—	—	—	—	—	—
		—	—	—	—	—	—
		—	—	—	—	—	—
2.85	Limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>), fresh 0805 50 90	74,30	42,63	2 125,21	554,42	1 162,47	18 618,38
		256,53	51,71	31,89	285,15	17 791,47	2 784,21
		691,21	50,91				
2.90	Grapefruit, fresh:						
2.90.1	— white ex 0805 40 00	60,18	34,53	1 721,41	449,08	941,59	15 080,73
		207,78	41,88	25,83	230,97	14 410,95	2 255,19
		559,87	41,24				
2.90.2	— pink ex 0805 40 00	84,88	48,70	2 427,87	633,38	1 328,01	21 269,83
		293,06	59,07	36,44	325,76	20 325,16	3 180,71
		789,64	58,16				

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg					
		EUR LTL SEK	CYP LVL GBP	CZK MTL	DKK PLN	EEK SIT	HUF SKK
2.100	Table grapes 0806 10 10	161,75	92,81	4 626,90	1 207,05	2 530,86	40 534,93
		558,50	112,58	69,44	620,82	38 734,63	6 061,64
		1 504,86	110,84				
2.110	Water melons 0807 11 00	43,62	25,03	1 247,75	325,51	682,50	10 931,17
		150,61	30,36	18,73	167,42	10 445,68	1 634,66
		405,82	29,89				
2.120	Melons (other than water melons):						
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onte- niente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	40,98	23,51	1 172,22	305,80	641,19	10 269,44
		141,49	28,52	17,59	157,28	9 813,34	1 535,70
		381,25	28,08				
2.120.2	— Other ex 0807 19 00	94,56	54,26	2 704,80	705,62	1 479,50	23 695,98
		326,49	65,81	40,59	362,92	22 643,56	3 543,52
		879,71	64,80				
2.140	Pears						
2.140.1	— Pears — nashi (<i>Pyrus pyrifolia</i>), Pears — Ya (<i>Pyrus bretschneideri</i>) ex 0808 20 50	—	—	—	—	—	—
		—	—	—	—	—	—
		—	—	—	—	—	—
2.140.2	— Other ex 0808 20 50	—	—	—	—	—	—
		—	—	—	—	—	—
		—	—	—	—	—	—
2.150	Apricots 0809 10 00	134,41	77,13	3 844,84	1 003,03	2 103,08	33 683,50
		464,10	93,55	57,70	515,88	32 187,50	5 037,07
		1 250,50	92,11				
2.160	Cherries 0809 20 95 0809 20 05	451,47	259,05	12 914,22	3 369,03	7 063,93	113 137,66
		1 558,83	314,22	193,81	1 732,78	108 112,83	16 918,73
		4 200,22	309,37				
2.170	Peaches 0809 30 90	231,56	132,87	6 623,71	1 727,98	3 623,09	58 028,33
		799,52	161,16	99,41	888,74	55 451,10	8 677,62
		2 154,30	158,67				
2.180	Nectarines ex 0809 30 10	176,17	101,09	5 039,35	1 314,65	2 756,47	44 148,28
		608,28	122,61	75,63	676,16	42 187,50	6 601,98
		1 639,00	120,72				
2.190	Plums 0809 40 05	154,90	88,88	4 430,89	1 155,92	2 423,65	38 817,74
		534,84	107,81	66,50	594,52	37 093,71	5 804,85
		1 441,10	106,14				
2.200	Strawberries 0810 10 00	322,94	185,30	9 237,79	2 409,93	5 052,96	80 929,54
		1 115,06	224,77	138,64	1 239,49	77 335,18	12 102,29
		3 004,50	221,30				

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg					
		EUR LTL SEK	CYP LVL GBP	CZK MTL	DKK PLN	EEK SIT	HUF SKK
2.205	Raspberries 0810 20 10	530,81	304,58	15 183,87	3 961,13	8 305,40	133 021,44
		1 832,79	369,45	227,88	2 037,31	127 113,50	19 892,17
		4 938,41	363,74				
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	1 068,17	612,92	30 555,00	7 971,11	16 713,23	267 683,40
		3 688,18	743,45	458,57	4 099,74	255 794,67	40 029,67
		9 937,72	731,96				
2.220	Kiwi fruit (<i>Actinidia chinensis</i> Planch.) 0810 50 00	158,53	90,96	4 534,74	1 183,01	2 480,45	39 727,49
		547,37	110,34	68,06	608,45	37 963,06	5 940,89
		1 474,88	108,63				
2.230	Pomegranates ex 0810 90 95	201,31	115,51	5 758,47	1 502,26	3 149,82	50 448,29
		695,08	140,11	86,42	772,65	48 207,71	7 544,09
		1 872,89	137,95				
2.240	Khakis (including sharon fruit) ex 0810 90 95	166,13	95,32	4 752,01	1 239,69	2 599,29	41 630,98
		573,60	115,62	71,32	637,61	39 782,00	6 225,54
		1 545,55	113,84				
2.250	Lychees ex 0810 90	—	—	—	—	—	—

COMMISSION REGULATION (EC) No 126/2006
of 25 January 2006

determining the extent to which applications lodged in December 2005 for import licences for certain pigmeat products under the regime provided for by the Agreements concluded by the Community with the Republic of Bulgaria and Romania can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 2040/2005 of 14 December 2005 laying down detailed rules for the application in the pigmeat sector of the arrangements provided for by the Agreements concluded by the Community with the Republic of Bulgaria and Romania ⁽¹⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) The applications for import licences lodged for the first quarter of 2006 are for quantities less than or equal to the quantities available and can therefore be met in full.
- (2) The surplus to be added to the quantity available for the following period should be determined.
- (3) It is appropriate to draw the attention of operators to the fact that licences may only be used for products which

comply with all veterinary rules currently in force in the Community,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for import licences for the period 1 January to 31 March 2006 submitted pursuant to Regulation (EC) No 2040/2005 shall be met as referred to in Annex I.
2. For the period 1 April to 30 June 2006, applications may be lodged pursuant to Regulation (EC) No 2040/2005 for import licences for a total quantity as referred to in Annex II.
3. Licences may only be used for products which comply with all veterinary rules currently in force in the Community.

Article 2

This Regulation shall enter into force on 26 January 2006.

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

Done at Brussels, 25 January 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 328, 15.12.2005, p. 34.

ANNEX I

Order No	Percentage of acceptance of import licences submitted for the period 1 January to 31 March 2006
09.4671	—
09.4751	—
09.4752	—
09.4756	—

ANNEX II

Order No	Total quantity available for the period 1 April to 30 June 2006
09.4671	4 400,0
09.4752	2 125,0
09.4756	15 625,0

(t)

COMMISSION REGULATION (EC) No 127/2006
of 25 January 2006

determining the percentage of quantities which may be allowed in respect of import licence applications lodged in January 2006 under tariff quotas for beef and veal provided for in Regulation (EC) No 1279/98 for Bulgaria and Romania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1279/98 of 19 June 1998, laying down rules for the application of the tariff quotas for beef and veal provided for in Council Decisions 2003/286/EC and 2003/18/EC for Bulgaria and Romania ⁽²⁾, and in particular Article 4(4) thereof,

Whereas:

Article 1 of Regulation (EC) No 1279/98 fixes the quantities of certain beef and veal products originating in Romania and

Bulgaria, which may be imported on special terms in respect of the period 1 July 2005 to 30 June 2006. The quantities of certain beef and veal products originating in Romania and Bulgaria covered by import licence applications submitted are such that applications may be accepted in full,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities covered by import licence applications submitted in respect of the period 1 January to 30 June 2006 under the quotas referred to in Regulation (EC) No 1279/98 are accepted in full.

Article 2

This Regulation shall enter into force on 26 January 2006.

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

Done at Brussels, 25 January 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Commission Regulation (EC) No 1899/2004 (OJ L 328, 30.10.2004, p. 67).

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

COMMISSION REGULATION (EC) No 128/2006**of 25 January 2006****on granting import licences for cane sugar for the purposes of certain tariff quotas and preferential agreements**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Having regard to Commission Regulation (EC) No 1159/2003 of 30 June 2003 laying down detailed rules of application for the 2003/04, 2004/05 and 2005/06 marketing years for the import of cane sugar under certain tariff quotas and preferential agreements and amending Regulations (EC) No 1464/95 and (EC) No 779/96 ⁽³⁾, and in particular Article 5(4) thereof,

Whereas:

- (1) Article 9 of Regulation (EC) No 1159/2003 lays down detailed rules on determining the delivery obligations at

zero duty for products falling within CN code 1701 expressed as white sugar equivalent for imports originating in countries which are parties to the ACP Protocol and the India Agreement.

- (2) The weekly totals referred to in Article 5(2) of Regulation (EC) No 1159/2003 show that some sugar is still available for the delivery obligations for preferential sugar originating in India for the 2005/06 delivery period which have already reached their limits.

- (3) Under these circumstances, the Commission must indicate that the limits concerned have not been reached,

HAS ADOPTED THIS REGULATION:

Article 1

The limits for the delivery obligations for preferential sugar originating in India for the 2005/06 delivery period have not yet been reached.

Article 2

This Regulation shall enter into force on 26 January 2006.

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

Done at Brussels, 25 January 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

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

⁽²⁾ OJ L 146, 20.6.1996, p. 1.

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

COMMISSION REGULATION (EC) No 129/2006**of 25 January 2006****amending the representative prices and additional duties for the import of certain products in the sugar sector fixed by Regulation (EC) No 1011/2005 for the 2005/2006 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽²⁾, and in particular the second sentence of the second subparagraph of Article 1(2), and Article 3(1) thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups for the 2005/2006 marketing year are fixed by

Commission Regulation (EC) No 1011/2005 ⁽³⁾. These prices and duties were last amended by Commission Regulation (EC) No 111/2006 ⁽⁴⁾.

- (2) The data currently available to the Commission indicate that the said amounts should be changed in accordance with the rules and procedures laid down in Regulation (EC) No 1423/95,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95, as fixed by Regulation (EC) No 1011/2005 for the 2005/2006 marketing year are hereby amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 26 January 2006.

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

Done at Brussels, 25 January 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 141, 24.6.1995, p. 16. Regulation as last amended by Regulation (EC) No 624/98 (OJ L 85, 20.3.1998, p. 5).

⁽³⁾ OJ L 170, 1.7.2005, p. 35.

⁽⁴⁾ OJ L 19, 24.1.2006, p. 4.

ANNEX

Amended representative prices and additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99 applicable from 26 January 2006

(EUR)

CN code	Representative price per 100 kg of the product concerned	Additional duty per 100 kg of the product concerned
1701 11 10 ⁽¹⁾	36,00	0,49
1701 11 90 ⁽¹⁾	36,00	4,10
1701 12 10 ⁽¹⁾	36,00	0,35
1701 12 90 ⁽¹⁾	36,00	3,81
1701 91 00 ⁽²⁾	33,91	8,28
1701 99 10 ⁽²⁾	33,91	4,16
1701 99 90 ⁽²⁾	33,91	4,16
1702 90 99 ⁽³⁾	0,34	0,32

⁽¹⁾ Fixed for the standard quality defined in Annex I.II to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

⁽²⁾ Fixed for the standard quality defined in Annex I.I to Regulation (EC) No 1260/2001.

⁽³⁾ Fixed per 1 % sucrose content.

COMMISSION DIRECTIVE 2006/9/EC**of 23 January 2006****amending Council Directives 90/642/EEC as regards the maximum residue levels of diquat, fixed therein****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/642/EEC of 27 November 1990 on the fixing of maximum levels for pesticide residues in and on certain products of plant origin including fruit and vegetables ⁽¹⁾, and in particular Article 7 thereof,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽²⁾, and in particular Article 4(1)(f) thereof,

Whereas:

(1) In accordance with Directive 91/414/EEC, authorisations of plant protection products for use on specific crops are the responsibility of the Member States. Such authorisations have to be based on the evaluation of effects on human and animal health and influence on the environment. Elements to be taken into account in such evaluations include operator and bystander exposure and impact on the terrestrial, aquatic and aerial environments, as well as impact on humans and animals through consumption of residues on treated crops.

(2) Maximum residue levels (MRLs) reflect the use of minimum quantities of pesticides to achieve effective protection of plants, applied in such a manner that the amount of residue is the smallest practicable and is toxicologically acceptable, in particular in terms of estimated dietary intake.

(3) MRLs for pesticides should be kept under review. They may be changed to take account of new uses, new information and data.

(4) MRLs are fixed at the lower limit of analytical determination where authorised uses of plant protection products do not result in detectable levels of pesticide

residues in or on the food product, or where there are no authorised uses, or where uses which have been authorised by Member States have not been supported by the necessary data, or where uses in third countries resulting in residues in or on food products which may enter into circulation in the Community market have not been supported with such necessary data.

(5) Information on new or changed uses of diquat covered by Directive 90/642/EEC has been notified to the Commission.

(6) The lifetime exposure of consumers to these pesticides via food products that may contain residues of these pesticides, has been assessed and evaluated in accordance with the procedures and practices used within the Community, taking account of guidelines published by the World Health Organisation ⁽³⁾. It has been calculated that the MRLs concerned will ensure that the acceptable daily intake is not exceeded.

(7) An assessment of the available information has shown that no ARfD is required and that therefore a short term assessment is not needed.

(8) Therefore it is appropriate to fix new maximum levels for residues of diquat.

(9) The setting or modification at Community level of provisional MRLs does not prevent the Member States from establishing provisional MRLs for diquat in accordance with Article 4(1)(f) of Directive 91/414/EEC and Annex VI thereto. It is considered that a period of four years is sufficient to permit further uses of diquat. The provisional Community MRL should then become definitive.

(10) Directive 90/642/EEC should therefore be amended accordingly.

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

⁽¹⁾ OJ L 350, 14.12.1990, p. 71. Directive as last amended by Commission Directive 2005/76/EC (OJ L 293, 9.11.2005, p. 14).

⁽²⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2005/72/EC (OJ L 279, 22.10.2005, p. 63).

⁽³⁾ Guidelines for predicting dietary intake of pesticide residues (revised), prepared by the GEMS/Food Programme in collaboration with the Codex Committee on Pesticide Residues, published by the World Health Organisation 1997 (WHO/FSF/FOS/97.7).

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 90/642/EEC is amended as follows. In group '4. OILSEEDS', the entry 'Hemp seed' is inserted between the entries 'Cotton seed' and 'Others'.

Article 2

Part A of Annex II to Directive 90/642/EEC is amended in accordance with the Annex to this Directive.

Article 3

1. Member States shall adopt and publish, by 26 July 2006 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 27 July 2006.

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

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

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 23 January 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

In part A of Annex II to Directive 90/642/EEC, the column for diquat is replaced by the following:

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

Pesticide residue and maximum residue level (mg/kg)	
Groups and examples of individual products to which the MRLs would apply	Diquat
Plums	
Others	
(v) BERRIES AND SMALL FRUIT	
(a) Table and wine grapes	
Table grapes	
Wine grapes	
(b) Strawberries (other than wild)	
(c) Cane fruit (other than wild)	
Blackberries	
Dewberries	
Loganberries	
Raspberries	
Others	
(d) Other small fruit and berries (other than wild)	
Bilberries	
Cranberries	
Currants (red, black and white)	
Gooseberries	
Others	
(e) Wild berries and wild fruit	
(vi) MISCELLANEOUS	
Avocados	
Bananas	
Dates	
Figs	
Kiwi	
Kumquats	
Litchis	
Mangoes	
Olives	
Papaya	
Passion fruit	
Pineapples	
Pomegranate	
Others	

Pesticide residue and maximum residue level (mg/kg)	
Groups and examples of individual products to which the MRLs would apply	Diquat
2. Vegetables, fresh or uncooked, frozen or dry	0,05 (*) (P)
(i) ROOT AND TUBER VEGETABLES	
Beetroot	
Carrots	
Cassava	
Celeriac	
Horseradish	
Jerusalem artichokes	
Parsnips	
Parsley root	
Radishes	
Salsify	
Sweet potatoes	
Swedes	
Turnips	
Yam	
Others	
(ii) BULB VEGETABLES	
Garlic	
Onions	
Shallots	
Spring onions	
Others	
(iii) FRUITING VEGETABLES	
(a) Solanacea	
Tomatoes	
Peppers	
Aubergines	
Others	
(b) Cucurbits — edible peel	
Cucumbers	
Gherkins	
Courgettes	
Others	

Pesticide residue and maximum residue level (mg/kg)	
Groups and examples of individual products to which the MRLs would apply	Diquat
(c) Cucurbits — inedible peel	
Melons	
Squashes	
Watermelons	
Others	
(d) Sweet corn	
(iv) BRASSICA VEGETABLES	
(a) Flowering brassica	
Broccoli (including Calabrese)	
Cauliflower	
Others	
(b) Head brassica	
Brussels sprouts	
Head cabbage	
Others	
(c) Leafy brassica	
Chinese cabbage	
Kale	
Others	
(d) Kohlrabi	
(v) LEAF VEGETABLES AND FRESH HERBS	
(a) Lettuce and similar	
Cress	
Lamb's lettuce	
Lettuce	
Scarole (broad-leaf endive)	
Others	
(b) Spinach and similar	
Spinach	
Beet leaves (chard)	
Others	
(c) Water cress	
(d) Witloof	

Pesticide residue and maximum residue level (mg/kg)	
Groups and examples of individual products to which the MRLs would apply	Diquat
(e) Herbs	
Chervil	
Chives	
Parsley	
Celery leaves	
Others	
(vi) LEGUME VEGETABLES (fresh)	
Beans (with pods)	
Beans (without pods)	
Peas (with pods)	
Peas (without pods)	
Others	
(vii) STEM VEGETABLES (fresh)	
Asparagus	
Cardoons	
Celery	
Fennel	
Globe artichokes	
Leek	
Rhubarb	
Others	
(viii) FUNGI	
(a) Cultivated mushrooms	
(b) Wild mushrooms	
3. Pulses	0,2 (P)
Beans	
Lentils	
Peas	
Others	
4. Oilseeds	
Linseed	5 (P)
Peanuts	0,1 (*) (P)
Poppy seed	0,1 (*) (P)

Pesticide residue and maximum residue level (mg/kg)	
Groups and examples of individual products to which the MRLs would apply	Diquat
Sesame seed	0,1 (*) (P)
Sunflower seed	<u>1</u> (P)
Rape seed	<u>2</u> (P)
Soya bean	<u>0,2</u> (P)
Mustard seed	0,5 (P)
Cotton seed	0,1 (*) (P)
Hemp seed	<u>0,5</u> (P)
Others	0,1 (*) (P)
5. Potatoes	0,05 (*) (P)
Early potatoes	
Ware potatoes	
6. Tea (dried leaves and stalks, fermented or otherwise, <i>Camellia sinensis</i>)	0,1 (*) (P)
7. Hops (dried), including hop pellets and unconcentrated powder	0,1 (*) (P)

(*) Indicates lower limit of analytical determination.

(P) Indicates that the maximum residue level has been established provisionally in accordance with Article 4(1)(f) of Directive 91/414/EEC.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 23 January 2006

amending the Council's Rules of Procedure

(2006/34/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 207(3) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 121(3) thereof,

Having regard to the Treaty on European Union, and in particular Articles 28(1) and 41(1) thereof,

Having regard to Article 2(2) of Annex IIa to the Council's Rules of Procedure ⁽¹⁾,

Whereas:

- (1) Article 11(5) of the Council's Rules of Procedure (hereinafter referred to as Rules of Procedure) provides that when a decision is to be adopted by the Council by a qualified majority, and if a member of the Council so requests, it shall be verified that the Member States constituting the qualified majority represent at least 62 % of the total population of the Union calculated according to the population figures set out in Article 1 of Annex IIa to the Rules of Procedure.
- (2) Article 2(2) of Annex IIa to the Rules of Procedure on detailed rules for implementing the provisions concerning the weighting of votes in the Council provides that, with effect from 1 January each year, the Council shall, in accordance with the data available to the Statistical Office of the European Communities on 30 September of the preceding year, amend the figures set out in Article 1 of that Annex.
- (3) The Rules of Procedure should therefore be amended accordingly,

⁽¹⁾ Council Decision 2004/338/EC, Euratom of 22 March 2004 adopting the Council's Rules of Procedure (OJ L 106, 15.4.2004, p. 22). Decision as amended by Decision 2004/701/EC, Euratom (OJ L 319, 20.10.2004, p. 15).

HAS DECIDED AS FOLLOWS:

Article 1

Article 1 of Annex IIa to the Rules of Procedure shall be replaced by the following:

'Article 1

For the purposes of implementing Article 205(4) of the Treaty establishing the European Community, Article 118(4) of the Treaty establishing the European Atomic Energy Community, and the third subparagraph of Article 23(2) and Article 34(3) of the Treaty on European Union, the total population of each Member State for the period from 1 January to 31 December 2006 shall be as follows:

Member State	Population (× 1 000)
Germany	82 500,8
France	62 370,8
United Kingdom	60 063,2
Italy	58 462,4
Spain	43 038,0
Poland	38 173,8
Netherlands	16 305,5
Greece	11 073,0
Portugal	10 529,3
Belgium	10 445,9

Member State	Population (× 1 000)
Czech Republic	10 220,6
Hungary	10 097,5
Sweden	9 011,4
Austria	8 206,5
Denmark	5 411,4
Slovakia	5 384,8
Finland	5 236,6
Ireland	4 109,2
Lithuania	3 425,3
Latvia	2 306,4
Slovenia	1 997,6
Estonia	1 347,0
Cyprus	749,2

Member State	Population (× 1 000)
Luxembourg	455,0
Malta	402,7
Total	461 324,0
Threshold (62 %)	286 020,9'

Article 2

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

It shall apply from 1 January 2006.

Done at Brussels, 23 January 2006.

For the Council
The President
 J. PRÖLL

COUNCIL DECISION**of 23 January 2006****on the principles, priorities and conditions contained in the Accession Partnership with Turkey**

(2006/35/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 390/2001 of 26 February 2001 on assistance to Turkey in the framework of the pre-accession strategy, and in particular on the establishment of an Accession Partnership ⁽¹⁾, and in particular to Article 2 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Regulation (EC) No 390/2001 provides that the Council is to decide, by a qualified majority and following a proposal from the Commission, on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership, as it will be submitted to Turkey, as well as on subsequent significant adjustments applicable to it.
- (2) On that basis the Council adopted an Accession Partnership with Turkey in 2001 and 2003 ⁽²⁾.
- (3) The Commission's 2004 recommendation on Turkey stressed that the European Union should continue the monitoring of the political reform process and that a revised Accession Partnership should be proposed in 2005.
- (4) In December 2004, the European Council concluded that the European Union will continue to monitor closely progress of the political reforms on the basis of an Accession Partnership setting out priorities for the reform process.

(5) On 3 October 2005, the Member States started negotiations with Turkey on its accession to the European Union. The advancement of the negotiations will be guided by Turkey's progress in preparing for accession, which will be measured, *inter alia*, against the implementation of the Accession Partnership, as regularly revised.

(6) In order to prepare for membership, Turkey is expected to develop a plan with a timetable and specific measures to address the priorities of this Accession Partnership,

HAS DECIDED AS FOLLOWS:

Article 1

The principles, priorities, intermediate objectives and conditions in the Accession Partnership for Turkey are set out in the Annex hereto, which forms an integral part of this Decision.

Article 2

The implementation of the Accession Partnership shall be examined and monitored in the bodies established under the Association Agreement and by the Council on the basis of annual reports by the Commission.

Article 3

This Decision shall take effect on the third day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 23 January 2006.

For the Council
The President
J. PRÖLL

⁽¹⁾ OJ L 58, 28.2.2001, p. 1.

⁽²⁾ Decision 2001/235/EC (OJ L 85, 24.3.2001, p. 13) and Decision 2003/398/EC (OJ L 145, 12.6.2003, p. 40).

ANNEX

TURKEY: 2005 ACCESSION PARTNERSHIP**1. INTRODUCTION**

At its meeting in Luxembourg in December 1997, the European Council decided that the Accession Partnership would be the key feature of the enhanced pre-accession strategy, mobilising all forms of assistance to the candidate countries within a single framework. In this manner, the Community targets its assistance towards the specific needs of each candidate so as to provide support for overcoming particular problems with a view to accession.

The first Accession Partnership for Turkey was adopted by the Council in March 2001. In the Commission's Strategy Paper on enlargement of October 2002, it was stated that the Commission would propose a revised Accession Partnership for Turkey. A revised Accession Partnership was then presented by the Commission in March 2003 and adopted by the Council in May of the same year. In its recommendation of October 2004, the Commission proposed that, with a view to guaranteeing the sustainability and the irreversibility of the political reform process, the EU should continue to monitor closely progress of the political reforms. In particular, the Commission proposed the adoption of a revised Accession Partnership in 2005.

Turkey is expected to develop a plan including a timetable and specific measures foreseen to address the Accession Partnership priorities.

The revised Accession Partnership provides the basis for a number of policy instruments which will be used to help the candidate state in the preparations for membership. In particular, the revised Accession Partnership will serve as a basis for future political reforms and as a yardstick against which to measure future progress.

2. PRINCIPLES

The main priorities identified for Turkey relate to its capacity to meet the criteria defined by the Copenhagen European Council of 1993 and the requirements of the negotiating framework adopted by the Council on 3 October 2005.

3. PRIORITIES

The priorities listed in this Accession Partnership have been selected on the basis that it is realistic to expect that the country can complete them or take them substantially forward over the next few years. A distinction is made between short-term priorities, which are expected to be accomplished within one to two years, and medium-term priorities, which are expected to be accomplished within three to four years. The priorities concern both legislation and the implementation thereof.

The revised Accession Partnership indicates the priority areas for Turkey's membership preparations. Turkey will, in the end, nevertheless have to address all issues identified in the progress report, including consolidating the political reform process in order to guarantee its irreversibility and ensure its uniform implementation throughout the country and at all levels of the administration. It is also important that Turkey fulfil the commitments of legislative approximation and implementation of the *acquis* in accordance with the commitments made under the Association Agreement, customs union and related decisions of the EC-Turkey Association Council, for example on the trade regime for agricultural products.

3.1. SHORT-TERM PRIORITIES

Enhanced political dialogue and political criteria

Democracy and the rule of law*Public administration*

- Pursue reform of public administration and personnel policy in order to ensure greater efficiency, accountability and transparency.
- Ensure effective, transparent and participatory local government, in particular through the implementation of recently adopted legislation.
- Establish a fully operational Ombudsman system.

Civil military relations

- Continue to align civilian control of the military with practice in EU Member States. Ensure that civilian authorities fully exercise their supervisory functions, in particular as regards the formulation of the national security strategy and its implementation. Take steps towards bringing about greater accountability and transparency in the conduct of security affairs.
- Establish full parliamentary oversight of military and defence policy and all related expenditure, including by external audit.
- Abolish any remaining competence of military courts to try civilians.

Judicial system

- Ensure consistent interpretation of legal provisions, including the new penal code, related to human rights and fundamental freedoms by all judicial authorities in line with the European Convention on Human Rights and its related case law.
- Ensure the independence of the judiciary, in particular as regards the High Council of Judges and Prosecutors and the appointment of new judges and prosecutors.
- Ensure equality of arms between the prosecution and defence during criminal proceedings, including layout of courtrooms.
- Continue the training of judges and prosecutors on the application of the European Convention on Human Rights and the case law of the European Court of Human Rights.
- Strengthen the efficiency of the judiciary through, in particular, reinforcing its institutional capacity and adopting a new code of civil procedure.
- Proceed with the establishment of regional intermediate courts of appeal.

Anti-corruption policy

- Fully commit at all levels to the fight against corruption, including by strengthening all institutions involved, as well as coordination between them.
- Ensure implementation of the Regulation on Principles of Ethical Behaviour for Civil Servants and extend its provisions to elected officials, judiciary, academics and military personnel.
- Limit the scope of parliamentary immunity in line with European practice.

Human rights and the protection of minorities*Observance of international human rights law*

- Promote human rights with the active support of an independent, adequately resourced national human rights institution in accordance with the relevant UN principles. Monitor human rights cases, including sound statistical data.
- Extend the training of law enforcement agencies on human rights issues and investigation techniques, in particular in order to strengthen the fight against torture and ill-treatment.
- Ratify the optional protocols to the International Covenant on Civil and Political Rights. Comply with the European Convention for the Protection of Human Rights and Fundamental Freedoms, including full execution of the judgments of the European Court of Human Rights.
- Implement legal provisions on the right to retrial in line with the relevant judgments of the European Court of Human Rights.

- Guarantee in law and in practice the full enjoyment of human rights and fundamental freedoms by all individuals without discrimination and irrespective of language, political opinion, race, sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.
- Ratify Protocol No 12 to the European Convention on Human Rights on the general prohibition of discrimination by public authorities.

Civil and political rights

Prevention of torture and ill treatment

- Ensure implementation of the measures adopted in the context of the 'zero tolerance' policy against torture and ill-treatment in line with the European Convention on Human Rights and the recommendations of the European Committee for the Prevention of Torture.
- Intensify the fight against impunity. Ensure that prosecutors conduct timely and effective investigations of alleged cases leading to identification and punishment of perpetrators by the courts.
- Ensure implementation of the Istanbul Protocol throughout the country, in particular by increasing medical expertise.
- Ratify the optional Protocol to the UN Convention against Torture which provides for the establishment of a system of independent monitoring of detention facilities.

Access to justice

- Enhance the opportunities for effective defence such as access to legal aid and qualified interpretation services.
- Ensure that citizens are aware of, and in a position to exercise, their right to have access in private to a lawyer and to have relatives notified from the outset of their custody.

Freedom of expression, association and peaceful assembly

- Ensure the exercise of freedom of expression, including freedom of the press, in line with the European Convention on Human Rights and in accordance with the case law of the European Court of Human Rights.
- Continue to remedy the situation of those persons prosecuted or sentenced for non-violent expression of opinion.
- Implement all reforms concerning freedom of association and peaceful assembly in accordance with the European Convention on Human Rights and its related case law. Implement measures to prevent the excessive use of force by security forces.
- Align the relevant provisions applying to political parties on European practice.
- Align financing and auditing of political parties on European practice.
- Facilitate and encourage the domestic development of civil society and its involvement in the shaping of public policies.
- Facilitate and encourage open communication and cooperation between all sectors of Turkish civil society and European partners.

Freedom of religion

- Adopt a law comprehensively addressing all the difficulties faced by non-Muslim religious minorities and communities in line with the relevant European standards. Suspend all sales or confiscation of properties which belong or belonged to non-Muslim religious community foundations by the competent authorities pending the adoption of the abovementioned law.

- Adopt and implement provisions concerning the exercise of freedom of thought, conscience and religion by all individuals and religious communities in line with the European Convention on Human Rights and taking into account the relevant recommendations of the Council of Europe's Commission against Racism and Intolerance.
- Establish conditions for the functioning of all religious communities, in line with the practice of Member States. This includes legal and judicial protection (*inter alia* through access to legal personality) of the communities, their members and their assets, teaching, appointing and training of clergy, and the enjoyment of property rights in line with Protocol No 1 to the European Convention on Human Rights.

Economic and social rights

Women's rights

- Implement legislation relating to women's rights, particularly the civil code, the new penal code and the law on the protection of the family.
- Pursue measures against all forms of violence against women, including crimes committed in the name of honour. Ensure specialised training for judges and prosecutors, law enforcement agencies, municipalities and other responsible institutions and establish shelters for women at risk of violence in all larger municipalities, in line with current legislation.
- Further promote the role of women in society, including their education and participation in the labour market and in political and social life, and support the development of women's organisations to fulfil these goals.

Children's rights

- Promote protection of children's rights in line with EU and international standards.
- Continue efforts to tackle the problem of street children.

Trade union rights

- Ensure that full trade union rights are respected in line with EU standards and the relevant ILO Conventions, in particular as regards the right to organise, the right to strike and the right to bargain collectively.
- Reinforce social dialogue, and facilitate and encourage cooperation with EU partners.

Minority rights, cultural rights and the protection of minorities

- Ensure cultural diversity and promote respect for and protection of minorities in accordance with the European Convention on Human Rights and the principles laid down in the Council of Europe's Framework Convention for the Protection of National Minorities and in line with best practice in Member States.
- Guarantee legal protection of minorities, in particular as regards the enjoyment of property rights in line with Protocol No 1 to the European Convention on Human Rights.
- Ensure effective access to radio/TV broadcasting in languages other than Turkish. Remove outstanding obstacles, particularly with regard to local and regional private broadcasters.
- Adopt appropriate measures to support the teaching of languages other than Turkish.

Situation in the east and southeast

- Abolish the village guard system in the southeast. Clear the area of landmines.
- Develop a comprehensive approach to reducing regional disparities, and in particular to improving the situation in southeast Turkey, with a view to enhancing economic, social and cultural opportunities for all Turkish citizens, including those of Kurdish origin.

- Pursue measures to facilitate the return of internally displaced persons to their original settlements in line with the recommendations of the UN Secretary-General's Special Representative for Displaced Persons.
- Ensure that those who have suffered loss and damage as a result of the security situation in the southeast are fairly and speedily compensated.

Regional issues and international obligations

Cyprus

- Ensure continued support for efforts to find a comprehensive settlement of the Cyprus problem within the UN framework and in line with the principles on which the Union is founded, whilst contributing to a better climate for a comprehensive settlement.
- Implement fully the Protocol adapting the Ankara Agreement to the accession of the 10 new EU Member States including Cyprus ⁽¹⁾.
- Take concrete steps for the normalisation of bilateral relations between Turkey and all EU Member States, including the Republic of Cyprus ⁽¹⁾, as soon as possible.

Peaceful settlement of border disputes

- Continue the efforts to resolve any outstanding border disputes in conformity with the principle of peaceful settlement of disputes in accordance with the UN Charter including if necessary jurisdiction of the International Court of Justice.
- Unequivocally commit to good neighbourly relations; address any sources of friction with neighbours; and refrain from any action which could negatively affect the process of peaceful settlement of border disputes.

Obligations under the Association Agreement

- Ensure implementation of commitments undertaken under the Association Agreement, including the customs union.
- Lift restrictions on trade in beef meat, live bovine animals and derivate products.

Economic criteria

- Continue to implement the current structural reform programme agreed with the IMF and the World Bank, in particular, ensure the control of public expenditure.
- Complete the implementation of the financial sector reform, in particular the alignment of prudential and transparency regulations and their surveillance on international standards.
- Safeguard the independence of market regulatory authorities.
- Accelerate the privatisation of state-owned entities, in particular of state-owned banks, taking into account the social component.
- Continue with market liberalisation, and price reforms, in particular in the areas of energy and agriculture, with particular emphasis on tobacco and sugar.
- Continue the economic dialogue with the EU, in particular in the framework of the pre-accession fiscal surveillance procedures, with emphasis on appropriate measures to achieve macroeconomic stability and predictability and on the implementation of structural reforms.

⁽¹⁾ See also the declaration by the European Community and its Member States of 21 September 2005.

- Implement means to address the problem of the informal economy.
- Improve professional training efforts, in particular for the younger population.
- Address labour market imbalances.
- Improve business climate, and in particular the functioning of commercial courts. To this end, improve the functioning of the commercial judiciary, paying particular attention to the independence of the judiciary and appropriate use of the expert witness system.
- Continue reform of the agricultural sector.
- Ensure the improvement of the general level of education and health, paying particular attention to the younger generation and disadvantaged regions.
- Facilitate and promote the inflow of foreign direct investments.

Ability to assume the obligations of membership

Free movement of goods

- Complete the removal of technical and administrative barriers to trade. Ensure effective in-market control and free movement of goods.
- Complete the identification of measures contrary to Articles 28 to 30 of the Treaty establishing the European Community, and remove them. In particular, eliminate all illegal non-automatic import licenses and implement mutual recognition principles in non-harmonised areas.
- Remove all restrictions to free circulation of goods due to discrimination against carriers of Member States, on the ground of their nationality or previous dockings.
- Ensure implementation of certification and conformity assessment and CE marking in compliance with the new and global approach directives; reinforce existing market surveillance and conformity-assessment structures with equipment and training and create compatible administrative infrastructure.
- Develop an effective legal metrology infrastructure and facilitate wider application of scientific and industrial metrology.

Right of establishment and freedom to provide services

- Define a methodology and roadmap to screen national legislation for potential obstacles to EC Treaty provisions related to the right of establishment and the freedom to provide services.
- Define and begin implementing a roadmap for the alignment with the *acquis* on the mutual recognition of professional qualifications, including the establishment of the necessary administrative capacity.
- Define a roadmap for the implementation of the postal services *acquis*.

Free movement of capital

- Remove all restrictions affecting foreign direct investments originating from the EU in all economic sectors.

Public procurement

- Accelerate alignment of the public procurement legislation with the *acquis*, in particular as regards concessions in the utilities sector and in relation with review procedures.

- Increase the capacity of the Public Procurement Authority to implement the new public procurement law.

Intellectual property law

- Improve enforcement of the legislation on intellectual property rights, by reinforcing administrative capacity and coordination including law enforcement agencies and the judiciary. Address in particular counterfeiting of trade marks, especially relating to automotive spare parts and luxury goods, as well as piracy, especially with regard to books, and other media.
- Agree to a mutually acceptable solution with the EU on the pending generics applications in the pharmaceutical sector.

Competition

- Align with the *acquis* concerning State aids, including in sensitive sectors such as steel, establish a national state aid monitoring authority and ensure a strict control of state aids.
- Ensure transparency and continuous exchange of information in the competition and state aid field.
- Complete alignment in secondary legislation in the anti-trust field.

Financial services

- Adopt the necessary implementing measures under the new banking law. Ensure consistent progress towards the implementation of the roadmap for the new capital requirements framework for credit institutions and investment firms.
- Strengthen prudential and supervisory standards in the non-bank financial sector, including by rationalising the supervisory structures where necessary.

Information society and media

- Ensure implementation of tariff and licensing legislation.
- Adopt and implement aligned legislation on electronic communications, notably in the areas of tariff and licensing legislation, leased lines, access and interconnection, carrier (pre)selection and number portability. Strengthen the capacity and the independence of the television/radio regulatory authorities.
- Continue alignment of legislation in the field of audiovisual policy, in particular with regard to the Television without Frontiers Directive.

Agriculture and rural development

- Adopt the necessary legislative measures and set up suitable administrative structures to operate EU instruments related to rural development.

Food safety, veterinary and phytosanitary policy

- Further align the system of animal identification and registration for bovines on EU requirements and start action with a view to the identification of sheep and goats and registration of their movements.
- Adopt a strategy to eradicate the main animal diseases.
- Prepare a programme for modernising food-processing establishments to meet EU hygiene and public health standards.
- Implement residues and zoonosis control programmes.

Fisheries

- Align fisheries management, control, marketing and structural adjustment legislation on the *acquis*. Strengthen the administrative capacity.

Transport

- Remove all existing restrictions on Cyprus-flagged vessels and vessels serving the Cyprus trade and the provisions of the aviation agreements that discriminate Member States' carriers on the basis of their nationality.
- Continue the alignment with the transport *acquis* in all transport modes.
- Strengthen maritime administration, in particular that of flag-state control and urgently improve the safety record of the Turkish fleet for it to be removed from the black-list flag states of the Paris Memorandum of Understanding.
- Adopt a programme for adaptation of the Turkish road transport fleet to EU standards.

Energy

- Ensure independence and effective functioning of the regulatory authority concerning electricity, natural gas and nuclear energy.
- Ensure the establishment of a competitive internal energy market, in compliance with the electricity and gas directives.
- Support the creation of a gradually integrated regional energy market as part of a wider European energy market. Remove restrictions on cross-border trade and third party access.
- Develop an energy strategy to facilitate the implementation of the legal framework in line with the *acquis*.
- Start alignment on the *acquis* on energy efficiency and renewable energy sources and develop administrative capacity in these sectors.

Taxation

- Continue alignment of excise duties and VAT, in particular in respect of applied rates, scope of exempt transactions, and tax structure and eliminate tax measures which may result in discriminatory treatments.
- Continue alignment with the *acquis* in the field of direct taxation, including provisions on exchange of information with EU Member States to facilitate enforcement of anti-avoidance and anti-evasion measures.
- Commit to the principles of the Code of Conduct for Business Taxation and ensure that future legislation complies with the principles of the Code of Conduct for Business Taxation.
- Intensify efforts to modernise and strengthen the tax administration with a view to increasing taxpayers' compliance and to improving the collection of direct taxes, as well as VAT and customs revenues, and other indirect taxes. Establish effective instruments to combat fraud.
- Begin preparations for the development of the necessary IT systems so as to allow for the exchange of electronic data with the EU and its Member States.

Statistics

- Complete the procedures for the adoption and enforcement of a new statistical law in line with EU standards. Ensure adequate training of staff and improve the administrative capacity.
- Reinforce the strategy for the development of statistics in particular in priority areas, such as: demographic and labour market statistics, regional statistics, business statistics (including business register) and agriculture statistics.

- Adopt the pending classifications, and introduce the relevant statistical units in the business register.
- Improve the national accounts methodology in line with ESA 95.

Social policy and employment

- Develop a yearly plan for financing investment, based on a realistic assessment of costs of alignment and of available public and private resources.
- Establish conditions for an effective social dialogue, *inter alia*, by abolishing restrictive provisions on trade union activities and ensuring respect for trade union rights.
- Support social partners' capacity building efforts, in particular with a view to their future role in the elaboration and implementation of employment and social policy, notably through autonomous social dialogue.
- Continue efforts to tackle the problem of child labour.
- Reinforce the capacity of all institutions involved in the transposition of the *acquis* in the field.

Enterprise and industrial policy

- Adopt the National Steel Restructuring Programme, which aims to ensure the viability of the sector and the respect of the EU rules on State aids.
- Develop and implement a strategy for the promotion of foreign investment, including dispute settlement.

Regional policy and coordination of structural instruments

- Continue to develop the strategic framework for economic and social cohesion, aimed at reducing regional disparities.
- Establish the necessary legislative and administrative framework to absorb EU pre-accession funds.

Justice, freedom and security

- Continue to develop and strengthen all law enforcement institutions and align their status and functioning with European standards, including through developing inter-agency cooperation. Adopt a code of police ethics. Establish an independent and effective complaints system to ensure greater accountability of the police and gendarmerie. Develop the use of modern investigative techniques and crime prevention strategies. Take steps to train and develop the capacity of the judicial police.
- Continue efforts to implement the National Action Plan on Migration and Asylum, to combat illegal migration and to conclude urgently a readmission agreement with the EU.
- Adopt and begin implementation of the National Action Plan on Border Management, in particular through taking steps to establish a professional non-military border guard and through de-mining of the border.
- Adopt and implement a national strategy on organised crime. Strengthen the fight against organised crime, drugs, trafficking in persons, fraud, corruption and money-laundering.
- Develop and start implementing a national drugs strategy in line with the EU Drugs Strategy and Action Plan.
- Adopt a law on protection of personal data in line with the *acquis* and establish an independent supervisory authority.
- Designate a service with competencies to protect the euro against counterfeiting.

Science and research

- Start designing and applying an integrated research strategy.

Education and culture

- Facilitate the functioning of the national agency to consolidate participation in the Socrates, Leonardo da Vinci and Youth Programmes. Promote participation in the Culture 2000 programme.

Environment

- Adopt a revised programme for transposition and implementation of the *acquis*. Develop a plan for financing investment.
- Continue to transpose and implement the *acquis* related to the framework legislation, international environmental conventions, and legislation on nature protection, water quality, Integrated Pollution Prevention Control and waste management. Implement and enforce the amended environmental impact assessment directive.
- Pursue the integration of environmental requirements into other sectoral policies.
- Develop a plan to strengthen administrative capacity, implementation and enforcement of environmental legislation.
- Pursue the development of transboundary water cooperation, in line with the water framework directive and international conventions to which the EC is a party.

Consumer and health protection

- Continue alignment with the *acquis*.
- Further develop institutional structures for effective implementation, in particular with regard to market surveillance.
- Further develop systems for notification of dangerous products on national level and exploit the possibilities to exchange such notifications on international level through TRAPEX or other relevant systems.

Customs union

- Adopt new customs code to further align customs rules with the relevant *acquis* including preferential origin rules.
- Align legislation on free zones with the relevant *acquis* and enforce it, particularly for rules concerning customs controls and tax auditing.
- Continue to strengthen the administrative and operational capacity of the customs administration and align internal procedures with the EU standards.
- Begin preparations for the development of the necessary IT systems so as to allow for the exchange of electronic data with the EU and its Member States, beginning with transit and tariff areas.

External relations and foreign, security and defence policy

- Complete alignment with EC common commercial policy, by aligning with EC preferential regimes including the new EC-generalised system of preferences regime.
- Continue efforts to conclude outstanding free trade agreements with third countries.

- Progressively align policies towards third countries and positions within international organisations with those of the EU and its Member States including in relation to the membership by all EU Member States of relevant organisations and arrangements such as Wassenaar.

Financial control

- Ensure the timely implementation of the Law on Public Financial Management and Control.
- Adopt new legislation to reform the external audit function in accordance with International Organisation of Supreme Audit Institutions rules and in compliance with the law on public financial management and control, to ensure the independence of the Court of Accounts.
- Establish effective procedures for the treatment of irregularities and cases of suspected fraud affecting pre-accession assistance, including the effective communication of irregularities to the Commission.
- Strengthen the implementation system for management of Community pre-accession funds and adapt it to evolution of pre-accession instruments.
- Establish the administrative structures necessary for the effective and equivalent protection of the EU funds and for the cooperation with the European Commission Anti-Fraud Office (OLAF).

3.2. MEDIUM-TERM PRIORITIES

Economic criteria

- Complete the implementation of the privatisation programme.
- Complete the reform of the agricultural sector.
- Ensure the sustainability of the pension and social security system.
- Continue to improve the general level of education and health, paying particular attention to the younger generation and disadvantaged regions.

Ability to assume the obligations of membership

Right of establishment and freedom to provide services

- Remove restrictions on the right of establishment and on the freedom to provide cross-border services.
- Start alignment with the *acquis* on postal services. Start the liberalisation of the postal services and establish a national regulatory authority.
- Achieve substantial alignment with the *acquis* as regards recognition of professional qualifications.

Public procurement

- Ensure that public procurement rules are effectively implemented by contracting authorities and entities at all levels, including by developing and applying operational tools, providing training and strengthening the administrative capacity of contracting authorities and entities.
- Promote the use of electronic means in procurement procedures.
- Adopt a comprehensive national strategy to develop Turkey's public procurement system, including the use of electronic means in all stages of the procurement procedure.

Intellectual property law

- Complete alignment and ensure the enforcement of intellectual property rights by strengthening enforcement structures and mechanisms, including enforcement authorities and the judiciary.

Financial services

- Make substantial progress towards the implementation of the new capital requirements framework, in line with the BRSA's detailed roadmap.
- Make substantial progress towards the alignment of legislation with the *acquis* in the non-bank financial sector.

Company Law

- Complete alignment with the *acquis*.
- Adopt a general-purpose financial reporting framework in line with EU standards, making full use of the exemptions foreseen in the *acquis*.
- Strengthen disclosure requirements. In particular, adopt a general requirement for companies to file audited legal entity and consolidated financial statements in order to make them publicly available.
- Strengthen the capacity of all relevant authorities to monitor and enforce financial reporting standards.

Competition

- Consolidate enforcement in the anti-trust and State aid field with special attention to monopolies and undertakings with special and exclusive rights.
- Pursue the restructuring of the steel sector in the framework of an agreed comprehensive sectoral programme.
- Increase awareness of the anti-trust and state aid rules among all market participants and aid grantors.

Information society and media

- Complete the transposition of the *acquis* in the telecommunication area and prepare for full liberalisation of the markets.
- Complete alignment of audiovisual legislation and strengthen the capabilities of the independent television/radio regulatory authority.

Agriculture and rural development

- Continue work on the setting up of the integrated administration and control system, in particular with regard to a land parcel identification system.

Food safety, veterinary and phytosanitary

- Align the veterinary, food safety, and phytosanitary legislation.
- Build up the necessary administrative capacity to implement the veterinary, phytosanitary and food legislation.
- Establish animal identification and registration system for sheep and goats in line with the EU requirements.
- Upgrade agri-food processing establishments so that they are in a position to respect EU food safety standards and legislation. Modernise dairy farms.

- Implement food safety control systems.
- Set up a system of collections of cadavers and treatment of animal by-products.
- Implement eradication plans for the main diseases.
- Align the system of plant variety registration with EU requirements.
- Further align the requirements on pesticide residues with EU provisions.

Fisheries

- Complete the establishment of adequate administrative structures and equipment at central and regional level that can ensure the implementation of the common fisheries policy.

Transport policy

- Complete the legislative and administrative alignment on all modes of transport. For road transport aim in particular at market access, road safety, road worthiness tests, road side inspections as well as social, fiscal and technical rules. Maritime transport should include maritime safety.
- Ensure implementation and enforcement of transport legislation in road, maritime and air transport (particularly air safety and air traffic management). To this end, improve implementation and enforcement capacity of related institutions for all aspects of civil aviation, road transportation and railways.
- Complete the restructuring of the national railway company and open up the railway market in conformity with the requirements of the *acquis*.
- Implement a programme of technical adaptation for the Turkish maritime and road transport fleet to comply with the Community norms.

Energy

- Complete alignment of national legislation with the *acquis*.
- Further strengthen administrative and regulatory structures.
- Restructure energy utilities and open up energy markets in conformity with the *acquis*.
- Ensure a high level of nuclear safety. When a nuclear energy production capacity is created, in particular strengthen the capacity, independence and resources of the regulatory authority in good time before the issuance of licenses begins. Ensure that environmental impact assessments (EIA) are carried out in full compliance with the EIA Directive.

Taxation

- Substantially advance work towards completing alignment with the tax *acquis*, as regards VAT, excise duties and direct taxation, including the Code of Conduct for business taxation.
- Continue strengthening and modernising the tax administration, including the IT sector, in order to improve collection of tax revenues. Continue preparations for the development of the necessary IT systems so as to allow for the exchange of electronic data with the EU and its Member States.

Economic and monetary policy

- Complete alignment on the *acquis* provisions concerning the prohibition of privileged access of public sector authorities to financial institutions and the prohibition of direct financing of the public sector.

Statistics

- Bring the business register up to EU standards.
- Align macroeconomic statistics further on the *acquis*, in particular as regards GDP estimates, harmonised consumer price indexes, short-term indicators, balance of payments, and labour statistics.
- Strengthen the coordination role of the State Institute of Statistics in order to improve the collection and processing of data originating in different governmental offices.
- Intensify the use of administrative sources for data collection.
- Complete harmonisation of finance statistics with the ESA 95 requirements.

Social policy and employment

- Complete transposition of the *acquis* and strengthen the related administrative and enforcement structures, including the labour inspectorates.
- Ensure implementation and enforcement of the social policy and employment *acquis*.
- Prepare a national employment strategy with a view to participation in the European Employment Strategy, including preparation and implementation of a joint employment policy review, and develop a capacity to monitor labour market and social developments.
- Prepare a national strategy on social inclusion, including data collection, in line with EU practice.
- Further develop social protection, notably by consolidating the reform of the social security and pension system with a view to financial sustainability, while strengthening the social safety net.

Enterprise and Industrial Policy

- Continue simplifying the business environment for SMEs, and align with the SME definition used in the EU.

Trans-European networks

- Implement the prioritised projects identified under the Transport Infrastructure Needs Assessment and in coherence with the European Community TEN-transport guidelines.
- Promote the implementation of projects in Turkey listed as projects of common interest in the European Community TEN-Energy Guidelines.

Regional policy and coordination of structural instruments

- Continue to strengthen the administrative capacity for the implementation of regional policy at both central and regional level.
- Establish multi-annual budgeting procedures setting out priority criteria for public investment in the regions.

Justice, freedom and security

- Align the status and functioning of the gendarmerie on European standards.
- Pursue alignment of visa legislation and practice with the *acquis*.

- Continue with alignment on the *acquis* in the field of asylum, through the lifting of the geographical limitation to the Geneva Convention; strengthening the system for hearing and determining applications for asylum and developing social support and integration measures for refugees.
- In the field of drugs, continue to strengthen the national focal point.
- Continue to develop the capacity of the customs service, including through the conclusion of customs cooperation agreements and the introduction of mobile surveillance units.
- In the field of data protection, ensure implementation of the *acquis* through the establishment of an independent supervisory authority.
- Adopt and implement the *acquis* and best practices on migration with a view to preventing illegal migration.
- Continue alignment on the *acquis* and best practices, in line with the national action plan on border management, so as to prepare for full alignment with the Schengen *acquis*.
- Adopt and implement the *acquis* in the fields of corruption, fight against drugs, organised crime, money laundering, judicial cooperation in criminal and civil matters, criminal law protection of the euro and of the Community's financial interests.

Education and culture

- Align on EU policies for the protection of cultural diversity, including in the light of the UNESCO Convention on Cultural Diversity.

Environment

- Continue alignment on the *acquis* and strengthen the institutional, administrative and monitoring capacity to ensure environmental protection, including data collection.
- Integrate sustainable development principles into the definition and implementation of sectoral policies.
- Ensure full transposition and progressive implementation and enforcement of the strategic environmental assessment directive, as amended.
- Adopt and implement a national waste management plan.

Customs Union

- Complete alignment of customs legislation in particular on tariff quota management, free zones, dual-use goods and technologies, precursors and counterfeit and pirated goods.
- Continue efforts to modernise customs controls and operations and ensure that all customs offices are equipped with IT infrastructure.
- Continue preparations for interconnectivity of the IT systems with the EU.

Financial control

- Reinforce the current management and control capacity of all institutes involved in the management of Community pre-accession funds under DIS.
- Prepare all institutions involved in the management of Community pre-accession funds for accreditation under the Extended Decentralised Implementation System (EDIS).

- Prepare for the designation of an operationally independent anti-fraud service.
- Reinforce the capacity of the administrative structures established for the protection of the EC's financial interests.

4. PROGRAMMING

Financial assistance for the priorities identified in the Accession Partnership will be made available through annual financing decisions taken by the Commission, following the procedure set out in Article 8 of Council Regulation (EC) No 2500/2001 of 17 December 2001 concerning pre-accession financial assistance for Turkey ⁽¹⁾ (for the 2006 programme) and in the Regulation for the Instrument for Pre-accession Assistance (IPA), once this has been adopted (for the 2007 to 2013 programmes). The financing decisions will be followed by a financing agreement signed with Turkey.

5. CONDITIONALITY

Community assistance for financing projects through the pre-accession instruments is conditional on the respect by Turkey of its commitments under the EC-Turkey Agreements, including Customs Union Decision 1/95 and other decisions, further concrete steps towards satisfying effectively the Copenhagen criteria and in particular progress in meeting the specific priorities of this revised Accession Partnership. Failure to respect these general conditions could lead to a decision by the Council on the suspension of financial assistance on the basis of Article 5 of Regulation (EC) No 2500/2001. Specific conditions are also included in individual annual programmes.

6. MONITORING

The implementation of the Accession Partnership shall be examined through the framework of the mechanisms established under the Association Agreement as appropriate and through the Commission's progress reports.

The Association Agreement sub-committees provide the possibility to review implementation of the Accession Partnership priorities as well as progress as regards legal approximation, implementation and enforcement. The Association Committee discusses overall developments, progress and problems in meeting the Accession Partnership's priorities as well as more specific issues referred to it from the sub-committees.

The monitoring of the pre-accession financial assistance programme shall be carried out jointly by Turkey and the European Commission through a joint monitoring committee. In order to ensure the effectiveness of monitoring, projects being funded under each financing agreement must incorporate verifiable and measurable indicators of achievements. Monitoring based on these indicators will assist the Commission, the Phare Management Committee (and its successor under IPA) and Turkey in subsequently reorienting programmes where necessary and in the design of new programmes.

The Phare Management Committee ensures that actions financed under the pre-accession programme are compatible with each other as well as with the Accession Partnership as laid down in Regulation (EC) No 2500/2001.

The Accession Partnership will continue to be amended as necessary in accordance with Article 2 of Council Regulation (EC) No 622/98 of 16 March 1998 on assistance to the applicant states in the framework of the pre-accession strategy, and in particular on the establishment of Accession Partnerships ⁽²⁾.

⁽¹⁾ OJ L 342, 27.12.2001, p. 1. Regulation as last amended by Regulation (EC) No 2112/2005 (OJ L 344, 27.12.2005, p. 23).

⁽²⁾ OJ L 85, 20.3.1998, p. 1.

COUNCIL DECISION
of 23 January 2006
appointing eight members of the Court of Auditors
(2006/36/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 247(3) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 160b(3) thereof,

Having regard to the opinions of the European Parliament ⁽¹⁾,

Whereas:

- (1) The terms of office of Mr Giorgio CLEMENTE, Mr Juan Manuel FABRA VALLÉS, Ms Máire GEGHEGAN-QUINN, Mr Morten Louis LEVYSOHN, Mr Robert REYNDERS, Mr Aunus SALMI, Mr Vítor Manuel da SILVA CALDEIRA and Mr Lars TOBISSON expire on 28 February 2006.
- (2) New appointments should therefore be made,

HAS DECIDED AS FOLLOWS:

Article 1

The following are hereby appointed members of the Court of Auditors for the period from 1 March 2006 to 29 February 2012:

- Mr Olavi ALA-NISSILÄ,
- Ms Máire GEGHEGAN-QUINN,
- Mr Lars HEIKENSTEN,
- Mr Morten Louis LEVYSOHN,
- Mr Karel PINXTEN,
- Mr Juan RAMALLO MASSANET,
- Mr Vítor Manuel da SILVA CALDEIRA,
- Mr Massimo VARI.

Article 2

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 23 January 2006.

For the Council
The President
J. PRÖLL

⁽¹⁾ Opinions delivered on 13 December 2005 (not yet published in the Official Journal).

COMMISSION

COMMISSION DECISION

of 5 December 2005

accepting an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of sulphanilic acid originating in India

(2006/37/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community⁽²⁾ (the basic anti-subsidy Regulation), and in particular Article 13 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) In July 2002, the Council, by Regulation (EC) No 1338/2002⁽³⁾ imposed definitive countervailing duties on imports of sulphanilic acid originating in India. On the same day, the Council, by Regulation (EC) No 1339/2002⁽⁴⁾, imposed definitive anti-dumping duties on imports of sulphanilic acid originating in the People's Republic of China and India.
- (2) Within the framework of these proceedings, the Commission, by Decision 2002/611/EC⁽⁵⁾ accepted a

price undertaking offered by an Indian company, i.e. Kokan Synthetics and Chemicals Pvt Ltd (the company).

- (3) In December 2003, the company informed the Commission that it wished to withdraw its undertaking voluntarily. Accordingly, the Commission Decision accepting the undertaking was repealed by Commission Decision 2004/255/EC⁽⁶⁾.
- (4) In February 2004, an anti-absorption investigation concerning imports of sulphanilic acid originating in China has been concluded by Council Regulation (EC) No 236/2004⁽⁷⁾, which increased the rate of the definitive anti-dumping duty for the People's Republic of China from 21 % to 33,7 %.

B. REQUEST FOR A REVIEW

- (5) In December 2004, the company lodged a request for a partial interim review pursuant to Article 11(3) of the basic anti-dumping Regulation and Article 19 of the basic anti-subsidy Regulation respectively, limited in scope to the examination of the acceptability of the reinstatement of its undertaking.
- (6) The request contained sufficient evidence of a significant change in circumstances which had occurred since the company voluntarily withdrew its undertaking. The company therefore wished to offer again its original undertaking and submitted that, in view of the changes circumstances, such an undertaking would be both effective and workable.
- (7) A notice of initiation of a partial interim review was published in the *Official Journal of the European Union* accordingly⁽⁸⁾.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 461/2004.

⁽³⁾ OJ L 196, 25.7.2002, p. 1. Regulation as amended by Regulation (EC) No 492/2004 (OJ L 80, 18.3.2004, p. 6).

⁽⁴⁾ OJ L 196, 25.7.2002, p. 11. Regulation as last amended by Regulation (EC) No 492/2004.

⁽⁵⁾ OJ L 196, 25.7.2002, p. 36.

⁽⁶⁾ OJ L 80, 18.3.2004, p. 29.

⁽⁷⁾ OJ L 40, 12.2.2004, p. 17.

⁽⁸⁾ OJ C 101, 27.4.2005, p. 34.

C. ACCEPTANCE OF THE UNDERTAKING

- (8) Details of the procedural aspects and findings of the review investigation are set out in Council Regulation (EC) No 123/2006 ⁽¹⁾ amending both, Regulation (EC) No 1338/2002 imposing a definitive countervailing duty and Regulation (EC) No 1339/2002 imposing a definitive anti-dumping duty on imports of sulphanilic acid originating, *inter alia*, in India.
- (9) It is the conclusion of the investigation that the revised undertaking offered by the company can be accepted since it eliminates the injurious effects of dumping and subsidisation.
- (10) In this revised offer, the company agreed to index the minimum price originally offered in order to address the cyclical nature of the price of one of the key ingredients used in the production of sulphanilic acid.
- (11) The company will also provide the Commission with regular and detailed information concerning its exports to the Community, meaning that the undertaking can be monitored effectively by the Commission. Furthermore, the sales structure of this company is such that the Commission considers the risk of circumventing the agreed undertaking is limited.
- (12) In view of this, the undertaking is acceptable.
- (13) In order to enable the Commission to monitor effectively the compliance with the undertaking, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty will be conditional upon the presentation of an invoice containing at least the items of information listed in the Annex to Regulation (EC) 123/2006. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that the shipment corresponds to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of countervailing and anti-dumping duty shall instead be payable.
- (14) To further ensure the effective respect of the undertaking, the importers have been made aware by the above

Council Regulation that any violation of the undertaking may lead to the retrospective application of the anti-dumping and countervailing duty for the relevant transactions.

- (15) In the event of a breach or withdrawal of the undertaking, or in case of withdrawal of acceptance of the undertaking by the Commission, the anti-dumping and countervailing duty imposed in accordance with Article 9(4) of the basic anti-dumping Regulation and Article 15(1) of the basic anti-subsidy Regulation shall automatically apply pursuant to Article 8(9) of the basic anti-dumping Regulation and Article 13(9) of the basic anti-subsidy Regulation,

HAS DECIDED AS FOLLOWS:

Article 1

The undertaking offered by the exporting producer mentioned below, in connection with the anti-dumping and anti-subsidy proceedings concerning imports of sulphanilic acid originating in India is hereby accepted.

Country	Company	Taric Additional Code
India	Kokan Synthetics and Chemicals Pvt Ltd, 14 Guruprasad, Gokhale Road (N), Dadar (W), Mumbai 400 028	A398

Article 2

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

Done at Brussels, 5 December 2005.

For the Commission
Peter MANDELSON
Member of the Commission

⁽¹⁾ See page 5 of this Official Journal.

COMMISSION DECISION

of 22 December 2005

amending Commission Decision 1999/572/EC accepting undertakings offered in connection with the anti-dumping proceedings concerning imports of steel wire ropes and cables originating, *inter alia*, in India

(2006/38/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

After consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

- (1) In August 1999, by Regulation (EC) No 1796/1999⁽²⁾, the Council imposed a definitive anti-dumping duty on imports of steel ropes and cables (the product concerned) originating, *inter alia*, in India.
- (2) By Decision 1999/572/EC⁽³⁾, the Commission accepted a price undertaking from an Indian company, i.e. Usha Martin Industries & Usha Beltron Ltd. This company has changed its name in the meantime and is now known as Usha Martin Ltd (UML). The change of name in no way affected the activities of the company.
- (3) As a result, imports into the Community of the product concerned of Indian origin, produced by UML or by any other related company worldwide, and of a type covered by the undertaking (the product covered by the undertaking), were exempted from the definitive anti-dumping duties.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 217, 17.8.1999, p. 1. Regulation as amended by Regulation (EC) No 1674/2003 (OJ L 238, 25.9.2003, p. 1).

⁽³⁾ OJ L 217, 17.8.1999, p. 63. Decision as last amended by Regulation (EC) No 1678/2003 (OJ L 238, 25.9.2003, p. 13).

(4) In this regard, it should be noted that certain types of steel wire rope currently produced by UML were not exported to the Community during the investigation period which led to the imposition of definitive anti-dumping measures and were not, therefore, within the scope of the exemption afforded by the undertaking. Accordingly, such steel wire ropes were liable to the payment of the anti-dumping duty when entered for free circulation in the Community.

(5) In November 2005, following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 121/2006⁽⁴⁾ decided that the anti-dumping measures applicable to imports of the product concerned originating, *inter alia*, in India should be maintained.

B. BREACHES OF THE UNDERTAKING

1. Obligations of companies with undertakings

- (6) The undertaking offered by UML obliges it (and any related company worldwide) to, *inter alia*, export the product covered by the undertaking to the first independent customer in the Community at or above certain minimum import price levels (MIPs) laid down in the undertaking. These price levels eliminate the injurious effects of dumping. In the case of resales in the Community to the first independent customer by related importers, the resale prices of the product covered by the undertaking, after appropriate adjustments for selling, general and administrative costs and a reasonable profit, must also be at levels which eliminate the injurious effects of dumping.
- (7) The terms of the undertaking also oblige UML to provide the Commission with regular and detailed information in the form of a quarterly report of its sales (and resales by its related parties in the Community) of the product concerned originating in India to the Community. Such reports are intended to include the products covered by the undertaking which benefit from the exemption to the anti-dumping duty as well as those types of steel wire ropes not covered by the undertaking and which are therefore liable to the anti-dumping duty.

⁽⁴⁾ See page 1 of this Official Journal.

- (8) Unless otherwise indicated, it is assumed by the Commission that the sales reports of UML (and the reports of resales of related companies established in the Community) are, as submitted, complete, exhaustive and correct in all particulars.
- (9) It was also acknowledged by UML that, with regard to the exemption to the anti-dumping duties afforded by the undertaking, such exemption is conditional upon presentation to Community customs services of an 'Undertaking Invoice'. Moreover, the company undertook not to issue such Undertaking Invoices for sales of those types of the product concerned not covered by the undertaking and which are therefore liable to the anti-dumping duty.
- (10) It is also a condition of the undertaking that the terms and provisions thereof apply to any related company to UML, worldwide.
- (11) For the purposes of ensuring compliance with the undertaking, UML also agreed to provide all information considered necessary by the Commission and to allow on-spot verification visits at its premises, and those of any related companies, in order to verify the accuracy and veracity of data submitted in the said quarterly reports.
- (12) In this regard, verification visits were carried out at the premises of UML in India and at those of a related company to UML in Dubai, i.e. Brunton Wolf Wire Ropes FZE (BWWR).

2. Results of the verification visit to UML

- (13) Examination of the company's accounting records showed that significant volumes of the product concerned not covered by the undertaking had not been included in the quarterly undertaking sales reports submitted to the Commission. Furthermore, the goods in question had been sold by UML to its related importers in the UK and Denmark and included on Undertaking Invoices.
- (14) It is considered that the omission of the sales in question from the sales reports and their incorrect inclusion on Undertaking Invoices constitute breaches of the undertaking.

3. Results of the verification visit to BWWR

- (15) It should first be noted that finished steel wire rope produced by BWWR has previously gone through two main production stages, namely: (i) a given number of individual steel wires are first twisted into what is known as a 'stranded wire', and (ii) a given number of such stranded wires formed from individual steel wires are then twisted together to form the finished steel wire rope.
- (16) The verification at the premises of BWWR established that significant quantities of stranded wire of Indian origin had been sold by UML to BWWR and that BWWR had transformed this stranded wire into steel wire rope, some of which was then sold to the Community and exported as having United Arab Emirates (UAE) origin.
- (17) In view of this transformation process, it was considered necessary to examine the question of the origin of the steel wire rope sold to the Community by BWWR. Reference was therefore made to Article 22 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽¹⁾ (the Community Customs Code), which provides that the non-preferential rules of origin apply to measures other than tariff measures established by Community provisions governing specific fields relating to trade in goods, such as anti-dumping measures.
- (18) The provisions regarding determination of the non-preferential origin of products, the production of which involves more than one country, are set out in Articles 24 and 25 of the Community Customs Code and Articles 35 and 39 of Commission Regulation (EEC) No 2454/93⁽²⁾ laying down the provisions for the implementation of the Community Customs Code. As concerns the concept of the 'last substantial transformation' referred to in Article 24 of the Community Customs Code, in the case of steel wire ropes, it is considered that this product has undergone its last substantial processing or working when it is classified in a four-digit Harmonised System Tariff Heading (the four-digit Heading) distinct from the four-digit Headings where the materials used in the manufacturing of this product were classified.

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

⁽²⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 883/2005 (OJ L 148, 11.6.2005, p. 5).

- (19) In accordance with the above, the transformation of Indian stranded wire falling within the four-digit Heading 73.12 into steel wire rope also falling within four-digit Heading 73.12 does not confer UAE origin on the finished product, in this case steel wire rope, but instead it keeps Indian origin.
- (20) Accordingly, steel wire rope sold by BWWR and made from stranded wire of Indian origin is considered to be of Indian origin and should therefore be subject to the current anti-dumping measures applicable to imports originating in India. Consequently, these products are either subject to the terms of the undertaking or liable to anti-dumping duties when entered for free circulation in the Community if they do not fall under any product category covered by the undertaking.
- (21) Furthermore, it was found that the steel wire ropes in question, considered to be of Indian origin, sold by BWWR to the Community had not been reported in UML's or its related companies' quarterly undertaking sales reports to the Commission, nor had they been declared as being of Indian origin on importation for free circulation in the Community. It follows that, in the absence of an Undertaking Invoice, such imports of the product concerned into the Community from Dubai, considered to be of Indian origin, should have been liable to payment of anti-dumping duty when entered for free circulation in the Community.
- (22) Moreover, it was established that such steel wire ropes of Indian origin produced in Dubai had been sold on the Community market below the relevant MIPs established in UML's undertaking for the steel wire ropes in question.
- (23) Accordingly, in view of all the above findings, UML was informed of the essential facts and considerations on the basis of which it was intended to withdraw the Commission's acceptance of the undertaking and to impose a definitive anti-dumping duty in its place. A period was granted within which representations could be made both in writing and orally. In this regard, UML submitted comments both in writing and verbally.

4. Submissions

(a) Breaches of reporting obligations

- (24) With regard to the issue of the product concerned exported by UML and not reported in the quarterly undertaking sales reports, it was stated that although the goods in question figured on Undertaking Invoices, they were imported into the Community under an inward processing scheme and were either subsequently entered for free circulation in the Community upon payment of the anti-dumping duty, or re-exported outside the Community. It was submitted, therefore, that their omission from the undertaking sales reports was simply due to clerical error, that no harm had been caused, and that no material infringement had occurred.
- (25) In support of this argument, UML considered that the primary aim of an undertaking is to ensure that sales are made at levels which eliminate injury. In this respect, it submitted that, as it had fully complied with these conditions, the accuracy of the undertaking sales reports was of secondary importance. Similarly, as long as products not covered by the undertaking but appearing on Undertaking Invoices had ultimately had the anti-dumping duty paid or had been re-exported outside the Community, it was considered by UML that the substance at the heart of the undertaking had been respected. It was therefore the view of UML that no change in the *status quo* of the Community market had occurred due to its actions in this regard or those of its related companies in the Community.
- (26) In response to these arguments, the Commission would agree that the function of any undertaking is to remove the injurious effects of dumping. However, it does not consider the obligation to provide accurate reports of sales or the inclusion of goods not covered by the undertaking on the Undertaking Invoices to be of secondary or subordinate importance to any other provisions of an undertaking. Only by being in possession of the full details of sales of the product concerned to the Community can the Commission effectively monitor an undertaking and determine whether it is being respected and the injurious effects of dumping removed. If sales reports are incomplete or inaccurate, this casts doubt on the company's respect of the undertaking as a whole. Compliance with the reporting formalities must therefore be regarded as forming part of the primary obligations of the companies concerned, in so far as those formalities are not only intended to simplify administrative procedures, but are also necessary for the proper functioning of the undertaking system as a whole.

(27) It follows from this that with regard to the question of whether the *status quo* on the Community market has been maintained (and, implicitly, whether harm has been done to the Community industry), it is considered that breaches of reporting obligations put the efficacy of the undertakings system into jeopardy, a system set up to specifically defend the Community producers of steel wire ropes from injurious dumping. The absence of complete and reliable reports also casts doubts on whether the substantive provisions of the undertaking have been complied with and therefore prevents the Commission from determining if all of the company's obligations have been met. Accordingly, the Commission must consider such violations as detrimental to the Community producers.

(28) In addition, under the undertaking, UML and its related companies, worldwide, have to respect all the different provisions of that undertaking and to take effective measures to ensure that the provisions thereof were complied with. In the present case, the internal checks and procedures necessary to enable UML to fully meet its obligations in accordance with the terms of the undertaking were not present.

(29) Accordingly, the arguments presented by the company with regard to the reporting formalities do not alter the Commission's view that a breach of the undertaking has occurred.

(b) *Proportionality*

(30) It was also submitted that there should exist a reasonable relationship between action taken by the Community Institutions within the framework of the present system of price undertakings for the product concerned originating in India and the intended aims of the measures (i.e. proportionality).

(31) As concerns the issue of proportionality, it should first be pointed out that in accordance with Article 8(7) of the basic Regulation, failure to comply with the obligation to provide relevant information (e.g. non-compliance with any of the reporting requirements) shall be construed as a breach of the undertaking. Furthermore, in accordance with Article 8(9) of the basic Regulation, a definitive duty shall be imposed in case of a breach of the undertaking. It is considered that these Articles underline the 'stand alone' importance of the reporting obligation. This is further emphasised by the clear and precise language

of the undertaking itself, in which all the reporting obligations are set out.

(32) This approach has also been confirmed by the jurisprudence of the Court of First Instance which has ruled that any breach of an undertaking is sufficient to justify the withdrawal of acceptance of an undertaking ⁽¹⁾.

(33) Accordingly, the arguments presented by UML with regard to proportionality do not alter the Commission's view that a breach of the undertaking has occurred.

(c) *Developing country*

(34) UML also argued that as it is an exporting producer situated in India, a developing country as defined by the WTO, in accordance with Article 15 of the WTO Anti-Dumping Agreement, 'special regard' should be given to it and, because of this, the Commission should not withdraw acceptance of the undertaking as this was a 'first minor issue of non-compliance'.

(35) With regard to the issue of whether UML being situated in a developing country is a ground for not withdrawing acceptance of its undertaking, it should be recalled that UML is the mother company of a multi-national group of companies and one of the largest producers of the product concerned in the world. In view of the apparent competence of the management and the structure of the UML group seen by the Commission during its verification visits, it cannot be accepted that complying with a reporting requirement would create any difficulties for the company. Moreover, if a company offers an undertaking, it has to ensure that it is subsequently able to comply with the obligations arising from the undertaking. The arguments of the company on this point are therefore rejected.

(d) *Non-preferential origin for import purposes*

(36) As concerns the question of the origin of the steel wire ropes exported to the Community from Dubai, made from stranded wire of Indian origin, it was submitted by UML that the goods in question did not keep Indian origin at the final processing stage (i.e. twisting and finishing of stranded wire into steel wire rope) but, instead, UAE origin was conferred on the goods by virtue of these final processes.

⁽¹⁾ Case T-51/96 *Miwon Co. Ltd v Council* [2000] ECR II-1841, paragraph 52.

- (37) In this regard, it was argued by UML that the Commission was wrong to rely on a change in the four-digit Heading as being the only determinant factor for non-preferential origin. It was further submitted by UML that, according to Articles 24 and 25 of the Community Customs Code, a change in the four-digit Heading is only one factor taken into account and is not necessarily conclusive as local value addition to imported inputs is another vital issue. In this regard, it was submitted that the local value addition in Dubai was in excess of 25 %. Furthermore, UML also contended that determining origin of goods by reference to changes (or not) to the four-digit Heading was the Community's negotiating position in ongoing WTO rules of origin negotiations and was '... not adopted Community law'.
- (38) It was also stated by UML that it was not aware of the non-preferential rules of origin and that when the Dubai factory was set up in 2003 it was assumed by the group's management in Dubai and in India that steel wire ropes produced in Dubai from stranded wire of Indian origin would acquire UAE origin.
- (39) With regard to these arguments raised by UML on the origin of the products in question exported to the Community from Dubai, the Commission would first point out that if two or more countries are involved in the production of goods, for non-preferential origin the concept of 'last substantial transformation' indeed determines the origin of the goods. However, in general, the criterion of last substantial transformation is expressed in one of the following three ways, namely (i) by a rule requiring a change of tariff (sub)heading in the Harmonised System nomenclature, or (ii) by a list of manufacturing or processing operations that do or do not confer on the goods the origin of the country in which these operations were carried out, or (iii) by a value added rule.
- (40) In this case, steel wire ropes are one of the products covered by the rule requiring a change in the tariff (sub) heading. Therefore, as the four-digit Heading for stranded wire and steel wire ropes are the same, the transformation process carried out in Dubai does not change the Indian origin for the determination of non-preferential origin.
- (41) Furthermore, although it was not necessary to address the question of 'value addition to imported inputs' in Dubai, for the sake of good administrative order, an examination was also made of figures provided to support the submission of UML that the local value addition in Dubai was substantial. This examination showed that the actual value added in Dubai was, in any event, lower than the 25 % threshold claimed by the company, when expressed as a percentage to the ex-works price of steel wire ropes.
- (42) As concerns the submission of UML that the change to the four-digit Heading approach is a negotiating position of the Commission with regard to WTO origin negotiations and not adopted law, it is noted that the four-digit Heading rule is a well-established practice in applying Article 24 of the Community Customs Code. As such, it is the rule applied by the Community Institutions and the competent customs authorities of the Member States in determining the non-preferential origin of a series of products, amongst which is the product in question.
- (43) With regard to the statement that the company was unaware of the non-preferential rules of origin, the Commission would first of all repeat that UML is the mother company of a large multi-national operation with related production sites, distributors and sales offices situated around the world. Given the movement of raw materials, finished and semi-finished goods between member companies in the group, it appears unlikely that the company was not aware of the non-preferential rules of origin or the origin of key products produced at one of its sites. Moreover, it should be pointed out, in any event, that companies are deemed to know the applicable Code and rules and cannot invoke ignorance as a justification for non-respect of the rules in force.
- (44) In view of the foregoing, the Commission considers that the goods in question, exported from Dubai, were of Indian origin and should therefore have been subject to the anti-dumping measures applicable to imports of steel wire ropes originating in India.
- (45) Accordingly, the arguments presented by the company with regard to the origin of the goods in question were not accepted and, therefore, did not alter the Commission's view that breaches of the undertaking have occurred.

C. AMENDMENT OF DECISION 1999/572/EC

- (46) In the light of the foregoing, it is considered that acceptance of the undertaking offered by Usha Martin Industries & Usha Beltron Ltd, now known as Usha Martin Ltd, should be withdrawn. Article 1 of Commission Decision 1999/572/EC accepting an undertaking from Usha Martin Industries & Usha Beltron Ltd should be amended accordingly,

HAS DECIDED AS FOLLOWS:

Article 1

Acceptance of the undertaking in relation to imports of steel ropes and cables offered by Usha Martin Industries & Usha Beltron Ltd is hereby withdrawn.

Article 2

The table in Article 1(1) of Decision 1999/572/EC is replaced by the following table:

Country	Manufacturer	TARIC additional code
South Africa	Haggie Lower Germiston Road Jupiter PO Box 40072 Cleveland South Africa	A023

Article 3

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

Done at Brussels, 22 December 2005.

For the Commission
Peter MANDELSON
Member of the Commission