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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1424/2006

of 25 September 2006

amending Regulation (EC) No 1676/2001 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of polyethylene terephthalate film originating in India and the Republic of Korea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/1996 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] (the basic Regulation),

Having regard to Council Regulation (EC) No 1676/2001 of 13 August 2001 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of polyethylene terephthalate film originating in India and the Republic of Korea [2], and in particular Article 1(3) thereof,

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

Whereas:

A. **PREVIOUS PROCEDURE**

(1) The Council, by Regulation (EC) No 1676/2001, imposed a definitive anti-dumping duty on imports into the Community of polyethylene terephthalate film (PET film) originating, *inter alia*, in India. Given the large number of exporting producers of PET film in India, during the investigation which led to the adoption of that Regulation (the original investigation) a sample of exporting producers was selected in accordance with Article 17 of the basic Regulation. Individual dumping margins ranging from 0 % to 65,3 % were calculated for companies individually investigated and a dumping margin of 57,7 % was also calculated, in accordance with Article 9(6) of the basic Regulation, for cooperating companies not part of the sample. Anti-dumping duties were subsequently imposed ranging from 0 % to 62,6 %, taking also into account the countervailing duties resulting from export subsidies imposed on the same products originating from India, which were then applicable by virtue of Council Regulation (EC) No 2597/1999 [3].

(2) The Council, by Regulation (EC) No 366/2006 [4] (the amending Regulation), amended the level of dumping margins calculated by Regulation (EC) No 1676/2001. The new dumping margins range between 3,2 % and 29,3 % and the new anti-dumping duty range between 0 % and 18 %, again in order to take account of the countervailing duties resulting from export subsidies imposed on the same products originating from India, as modified according to Council Regulation (EC) No 367/2006 [5], which has been adopted following an expiry review of Regulation (EC) No 2597/1999.

(3) Furthermore, Regulation (EC) No 367/2006 sets the countervailing duty applicable to companies other than those individually listed in its Article 1(2) at 19,1 %, the export subsidy margin for those companies being calculated at the level of 12 %.

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[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 227, 23.8.2001, p. 1. Regulation as last amended by Regulation (EC) No 1288/2006 (OJ L 236, 31.8.2006, p. 1). Regarding the Republic of Korea this Regulation has expired on 24 August 2006 (OJ C 199, 24.8.2006, p. 8).

[3] OJ L 316, 10.12.1999, p. 1.

[4] OJ L 68, 8.3.2006, p. 6.

[5] OJ L 68, 8.3.2006, p. 15. Regulation as amended by Regulation (EC) No 1288/2006.

(4) Article 1(3) of Regulation (EC) No 1676/2001, as amended by Regulation (EC) No 366/2006, establishes three criteria, as detailed in recital (7) below, which, when met, give the possibility to Indian exporting producers which were not subject to anti-dumping measures following the original investigation to be granted new exporting producer treatment. Applicants which are granted this treatment are attributed the same duty rate as the companies which had cooperated in the original investigation but were not included in the sample. They are therefore subject to a duty which corresponds to the weighted average margin of dumping established for the companies included in the sample during the original investigation, being understood that any zero and *de minimis* margin are disregarded, pursuant to Article 9(6) of the basic Regulation.

(5) During the original investigation, the above mentioned weighted average dumping margin was calculated as the weighted average of the dumping margins of three sampled companies, since one of the four originally sampled companies had a zero margin. The weighted average margin of dumping so calculated in the original investigation was, as mentioned in recital (1), 57,7 %. The amending Regulation reduces significantly the margin of dumping of the three above mentioned companies. The new weighted average margin of dumping, to be applied to companies fulfilling the requirements of Article 1(3) of Regulation (EC) No 1676/2001, recalculated following the findings of the amending Regulation is therefore 15,5 %.

B. **NEW EXPORTING PRODUCER REQUESTS**

(6) The Indian exporting producer SRF Limited (the applicant) has applied to be granted the same treatment as the companies cooperating in the original investigation not included in the sample (new exporting producer treatment).

(7) An examination has been carried out in order to determine whether the applicant fulfils the criteria for being granted new exporting producer treatment as set out in Article 1(3) of Regulation (EC) No 1676/2001, namely it was examined:

— that it did not export to the Community the goods described in Article 1(1) of that Regulation during the original investigation period (1 April 1999 to 31 March 2000),

— that it is not related to any exporter or producer in India subject to the measures imposed by the Regulation,

and

— that it has exported the goods concerned after the investigation period, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Community.

(8) A questionnaire was sent to the applicant which was also asked to provide evidence to demonstrate that it meets the three criteria mentioned above.

(9) The applicant replied to the questionnaire and provided evidence that is considered sufficient to consider it as a new exporting producer.

(10) The anti-dumping duty rate applicable to the applicant should be based on the weighted average margin of dumping established for the parties selected in the sample in the original investigation, as modified following the amending Regulation, i.e. 15,5 %, as indicated in recital (5) above.

(11) Since, pursuant to Article 14(1) of the basic Regulation, no product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from the provision of export subsidies, this duty rate is to be reduced by the applicant's export subsidy margin as ascertained in the anti-subsidy investigation which led to the adoption of Regulation (EC) No 367/2006 (see recital (59) of Regulation (EC) No 366/2006). Since the applicant does not have an individual countervailing duty, the duty rate established for all other companies should apply.

(12) The anti-dumping duty rate applicable to the applicant should therefore be calculated as indicated in the table below.

Company	Export subsidy margin	Total subsidy margin	Dumping margin	CVD duty	AD duty	Total duty rate
SRF Limited	12,0 %	19,1 %	15,5 %	19,1 %	3,5 %	22,6 %

(13) The applicant and the Community industry have been informed of the findings of the examination and have had the opportunity to submit their comments.

(14) The applicant submitted comments on the calculation of the margin of dumping. These comments have been taken into account and are reflected in the above.

(15) All other arguments and submissions made by the parties were analysed and duly taken into account where warranted.

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Regulation (EC) No 1676/2001 shall be replaced by the following:

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

Country	Company	Definitive duty (%)	TARIC Additional Code
India	Ester Industries Limited 75-76, Amrit Nagar Behind South Extension Part-1 New Delhi 110 003 India	17,3	A026
India	Flex Industries Limited A-1, Sector 60 Noida 201 301, (U.P.) India	0	A027
India	Garware Polyester Limited Garware House 50-A, Swami Nityanand Marg Vile Parle (East) Mumbai 400 057 India	6,8	A028
India	Jindal Poly Films Limited 56 Hanuman Road New Delhi 110 001 India	0	A030
India	MTZ Polyfilms Limited New India Centre, 5th floor 17 Co-operage Road Mumbai 400 039 India	18,0	A031
India	Polyplex Corporation Limited B-37, Sector-1 Noida 201 301 Dist. Gautam Budh Nagar Uttar Pradesh India	0	A032
India	SRF Limited Express Building 9-10 Bahadur Shah Zaraf Marg New Delhi 110 002 India	3,5	A753
India	All other companies	17,3	A999'

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, 25 September 2006.

For the Council
The President
M. PEKKARINEN

COUNCIL REGULATION (EC) No 1425/2006

of 25 September 2006

imposing a definitive anti-dumping duty on imports of certain plastic sacks and bags originating in the People's Republic of China and Thailand, and terminating the proceeding on imports of certain plastic sacks and bags originating in Malaysia

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 Article 9 thereof,

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

Whereas:

A. **PROCEDURE**

1. INITIATION

(1) On 30 June 2005, pursuant to Article 5 of the basic Regulation, the Commission announced, by a notice (notice of initiation) published in the *Official Journal of the European Union* [2], the initiation of an anti-dumping proceeding with regard to imports into the Community of certain plastic sacks and bags originating in the People's Republic of China (the PRC), Malaysia and Thailand (the countries concerned).

(2) The proceeding was initiated as a result of a complaint lodged on 17 May 2005 by 29 Community producers of plastic sacks and bags, representing a major proportion (in this case more than 25 %) of the total Community production of plastic sacks and bags. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

2. PARTIES CONCERNED BY THE PROCEEDING

(3) The Commission officially advised the complainant Community producers, their association, other Community producers, the exporting producers, importers, suppliers and users as well as user associations known to be concerned and the representatives of the exporting countries of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time-limit set in the notice of initiation.

(4) Given the large number of known exporting producers in the PRC, Malaysia and Thailand, as well as the large number of known Community producers and importers, sampling for the determination of dumping and injury was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation (see below for further details regarding sampling).

(5) In order to allow exporting producers in the PRC to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the exporting producers known to be concerned and to the authorities of the PRC. Some 108 companies and groups requested MET pursuant to Article 2(7) of the basic Regulation. All the companies and groups above also claimed IT should the investigation have established that they did not meet the conditions for MET. Three companies claimed IT only.

(6) The Commission sent questionnaires to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the notice of initiation. In addition to questionnaire replies received from parties selected in the samples of exporters, importers and Community industry, replies to questionnaires were also received from two Community retailers.

(7) A number of parties also made their views known in writing. All parties who so requested within the set time-limit and indicated that there were particular reasons why they should be heard were granted a hearing.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).
[2] OJ C 159, 30.6.2005, p. 19.

(8) The Commission sought and verified all the information it deemed necessary for the purpose of the preliminary determination of dumping, resulting injury and Community interest and carried out investigations at the premises of the following companies:

Community producers

— SP Metal, Paris, France and its related companies SP Metal Biel, Zaragoza, Spain and Jet Sac SA, Auchel, France

— Groupe Barbier SA, Ste Sigolene, France

— Plasticos Romero SA, Murcia, Spain

— Plasbel SA, Murcia, Spain

— Alplast SA, Ste Marie aux Mines, France

Unrelated importers in the Community

— FIPP GmbH & Co KG and its related company DEISS GmbH & Co KG, Hamburg, Germany

Exporting producers and related companies in the exporting countries

PRC

— Cedo Shanghai Ltd, Shanghai

— Chun Yip Plastics (Shenzhen) Ltd, Shenzhen

— Huizhou Jun Yang Plastics Co., Ltd, Huizhou

— Suzhou Guoxin Group Co., Ltd, Taicang

— Wuxi Jiayihe Packaging Co., Ltd. and Wuxi Bestpac Packaging Co., Ltd, Wuxi

— Zhongshan Qi Yu Plastic Products Co., Ltd, Zhongshan

— Weifang Lefu Plastic Products Co., Ltd, Weifang

— Jinguan (Longhai) Plastics Packing Co., Ltd, Longhai

— Sunway Kordis (Shanghai) Ltd. and Shanghai Sunway Polysell Ltd, Shanghai

— Nantong Huasheng Plastic Products Co., Ltd, Nantong

Malaysia

— Dragonpak Industries (M) S/B, Johor Bahru

— Europlastics Malaysia S/B, Shah Alam

— Hond Tat Industries S/B, Klang

— Plastic V S/B, Klang

— Poly Carrier Industries S/B, Klang

— Sido Bangun S/B, Negri Sembilan

Thailand

— King Pac Industrial Company Ltd, Chonburi

— Multibax Public Co., Ltd, Chonburi

— Naraipak Co., Ltd, Bangkok

— Sahachit Watana Plastic Industry Co., Ltd, Bangkok

— Thai Plastic Bags Industries Co., Ltd, Nakornpathorn

Related importers in the Community

— Cedo Limited UK, Telford, United Kingdom

— Cedo GmbH, Mönchengladbach, Germany

— Europackaging plc, Birmingham, United Kingdom

— 3S's Limited, Upton-upon-Severn, United Kingdom

— Kordis Limited and Kordis BV, Stratford-upon-Avon, United Kingdom

3. INVESTIGATION PERIOD

(9) The investigation of dumping covered the period from 1 April 2004 to 31 March 2005 (investigation period or IP). The examination of injury covered the period from 1 January 2002 to 31 March 2005 (period considered).

B. **SAMPLING**

1. SAMPLING FOR EXPORTING PRODUCERS IN THE PRC, MALAYSIA AND THAILAND

(10) As stated above, in view of the large number of exporting producers in the PRC, Malaysia and Thailand, sampling was proposed in the notice of initiation, in accordance with Article 17(1) of the basic Regulation.

(11) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers were requested to make themselves known within 15 days from the date of the initiation of the investigation and to provide basic information on their export and domestic sales, and the names and activities of all their related companies involved in the production and/or selling of the said product. The authorities in the PRC, Malaysia and Thailand were also consulted.

(12) Some 108 companies and groups in the PRC, 36 companies from Malaysia and 17 from Thailand came forward and provided the requested information within the given deadline. However, only 104 companies and groups from the PRC, 31 companies from Malaysia and 14 from Thailand reported exports to the Community during the investigation period.

(13) Those exporting producers that exported the said product to the Community during the investigation period and expressed a wish to participate in the sample were considered as cooperating companies and were taken into account in the selection of the samples.

(14) The cooperating exporting producers represented around 95 % of total exports of the product concerned from the PRC to the Community and 96 % of Malaysia's and 88 % of Thailand's total exports.

(15) The remaining companies were either traders or exporting producers without exports to the Community during the investigation period. Therefore, a dumping margin will not be determined for these companies.

(16) Exporting producers which did not make themselves known within the aforesaid period were considered as not cooperating with the investigation.

(17) According to Article 17(1) of the basic Regulation, the following criteria were taken into account in the selection of the sample: size of exporting producer with regard to export sales to the Community as well as size of exporting producer with regard to domestic sales. It was considered that, for the reasons set out below, the sample should include a sufficient number of companies selling on the domestic market. Therefore, a number of major exporting companies having representative domestic sales were included in the sample.

(18) On this basis, the Commission originally selected samples of 10 Chinese exporting producers, six Malaysian exporting producers and six Thai exporting producers. The selected companies represented around 52 %, 62 % and 71 % of the exports of the said product to the Community from the PRC, Malaysia and Thailand respectively.

(19) In accordance with Article 17(2) of the basic Regulation, the cooperating exporting producers and the authorities of the countries concerned were given the opportunity to comment on the selection of the sample.

(20) A number of Chinese exporters argued that they should have been included in the sample, because of particular circumstances regarding their companies such as: product types, business model, cost structure, or affiliation with Hong Kong or EU-based groups. However, it would have been impractical, and not required by the basic Regulation, to aim for a sample reflecting all the above factors, given the amount of information and the time available for the sample selection. Moreover, the basic Regulation allows limiting the investigation to the largest representative volume of exports which can reasonably be investigated within the time available.

(21) One Chinese exporter argued that the Commission should, according to the Anti-Dumping Agreement (ADA) of the WTO, have simply selected the exporters with the largest volume of export sales to the Community, without having regard to the volume of domestic sales. Article 6.10 ADA provides, *inter alia*, that

a sample of exporters can be chosen based on 'the largest percentage of the volume of the exports from the country in question which can reasonably be investigated'. This interpretation of Article 6.10 ADA has to be rejected. First, there is nothing in the wording of Article 6.10 ADA that precludes that exporters with representative domestic sales are also included in the sample. Second, the purpose of selecting a sample of exporting producers is to collect the highest possible representative data on the basis of which a dumping margin could be calculated. In this respect, it is essential that companies with domestic sales of the product concerned are included in the sample in order to be able to determine normal value and SG&A and profit according to Articles 2(1) to (6) of the basic Regulation. For companies found to fulfil the MET criteria, establishing normal value without sufficient information on such SG&A and profit would be problematic. The largest volume of exports that can reasonably be investigated should thus also include at least a sufficient number of companies with domestic sales in the IP. As a consequence, only the major exporting companies which also represented a major part of the domestic sales have been selected in accordance with Article 6.10 ADA and Article 17 of the basic Regulation.

(22) During the investigation, it was found that Wuxi Jiayihe Packaging Co., Ltd and Wuxi Bestpac Packaging Co., Ltd had in error declared large amounts of exports to the EC of the said product that they themselves had not produced, but had in fact processed for other exporting producers. Given the small amount of their actual sales of own-produced said product, the company was removed from the Chinese sample. However given that the company had already been inspected, it will in effect receive individual examination.

(23) The Malaysian Plastic Manufacturers Association pointed out that one of the companies not selected in the sample had failed to report its local sales of plastic bags of a related company, and should have been selected for the sample. As the information about this reporting mistake was received in a timely manner, the Commission agreed to include that company in the sample, replacing one of the companies previously selected which had a smaller volume of export sales.

(24) Questionnaires were sent for completion to the 22 originally sampled companies and replies from all of them were received within the given deadlines, with the exception of one Thai company which had been selected for the sample but ceased cooperation afterwards.

(25) In view of the large number of countries and parties involved and the time constraints, the Commission concluded that no individual examination of exporting producers, with a view to the application of Articles 9(6) and 17(3) of the basic Regulation, could be granted because this would be unduly burdensome and would prevent completion of the investigation in good time. Accordingly, the Commission informed all co-operating exporting producers that it did not intend to grant individual examinations if requested. Moreover, no such requests were received by the 40-day deadline stipulated in the notice of initiation.

(26) It should be noted that one company in China not sampled, but cooperating with the investigation, submitted a request for change of name from Jiangmen Xiefeng Plastic Co., Ltd to Jiangmen Toptype Plastic Products Co., Ltd. Evidence was submitted that this was a change of name of the same legal entity and therefore no change was made otherwise to the company's status, structure or ownership. As such the name of the company was amended to the new name in the Annex to this Regulation.

2. SAMPLING OF COMMUNITY PRODUCERS

(27) In view of the large number of Community producers, sampling was proposed in the notice of initiation in accordance with Article 17(1) of the basic Regulation. For this purpose, the Commission requested Community producers to provide information concerning production and sales of the like product.

(28) Thirty-four Community producers came forward and provided the information requested in the notice of initiation. A total of five companies (three in France and two in Spain) were selected for the sample as they represented the largest representative volume of production in the Community (around 18 %), which could be reasonably investigated within the time available. In accordance with Article 17(2) of the basic Regulation, the association of Community producers was consulted and raised no objection. All sampled Community producers cooperated and sent questionnaire replies within the deadlines. In addition, the remaining complainant producers and producers supporting the investigation, situated in Belgium, Denmark, France, the Netherlands, Poland, Portugal, Spain and the United Kingdom, duly provided certain general data for the injury analysis.

3. SAMPLING OF IMPORTERS

(29) In view of the large number of importers in the Community, sampling was envisaged in the notice of initiation in accordance with Article 17(1) of the basic Regulation. For these purposes, the Commission requested importers to provide information concerning imports and sales of the product concerned.

(30) On the basis of the information received, the Commission selected five importers in three Member States, two in France, one in Germany and two in the United Kingdom. Two known associations of importers were consulted. These importers represented the largest representative volume of sales of known importers in the Community (around 9 %), which could be reasonably investigated within the time available. Two importers finally cooperated and sent questionnaire replies.

4. DISCLOSURE

(31) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of certain plastic sacks and bags originating in the PRC and Thailand and terminating the proceeding as regards imports originating in Malaysia. They were also granted a period within which to make representations subsequent to the disclosure of the essential facts and considerations on the basis of which definitive measures are imposed.

(32) The oral and written comments submitted by the interested parties were considered and, where appropriate, the findings have been modified accordingly.

C. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. GENERAL

(33) Plastic sacks and bags made of polyethylene are generally distributed through retail outlets to consumers, who use them mainly for purchased goods conveyance, food packing or household waste disposal.

2. THE PRODUCT CONCERNED

(34) The product concerned is plastic sacks and bags, containing at least 20 % of polyethylene by weight and of a thickness not exceeding 100 micrometers (plastic bags) originating in the PRC, Malaysia and Thailand. The product concerned falls within CN codes ex 3923 21 00, ex 3923 29 10 and ex 3923 29 90.

(35) Plastic bags are produced from polyethylene polymers by extrusion in a continuous tubular form, through the injection of air, followed by cutting, and where applicable welding, printing and adding of handles and/or closure systems. The bags can be made from several densities of polyethylene and blended with other resins or additives. The material composition will affect the bag's properties such as strength, durability or degradability which may be required for different applications.

(36) In the course of the investigation, it was argued by the PRC authorities and by several importers and exporters that the investigation scope was too wide because it included items such as carrier bags, garbage bags, freezer bags, fruit and vegetable bags and other items which are allegedly different in terms of physical characteristics, pricing, sales channels, end-uses and consumer perception. In particular, one exporter and several importers requested that zipper bags (polythene bags with a zipper sealing function) should be excluded from the investigation scope due to alleged differences in raw material, production process, appearance, usage, distribution, customer perception and price. Another importer made a similar argument concerning money bags, which allegedly have some unique technical and physical characteristics and are only produced by a limited number of companies.

(37) One Malaysian exporter further argued that a patented feature of the dispensing mechanism of some of their carrier bags meant that they should be excluded from the scope of the investigation, since bags with these features allegedly cannot be produced by the Community industry. However this patented feature, while intended to bring a functional advantage over other carrier bags, does not represent a sufficient difference in physical characteristics for the bags in question to be considered a separate product. Indeed, they remain basically interchangeable with other carrier bags, with or without similar patented systems.

(38) While it is recognised that there are different types of plastic bags, which are designed for different applications including those mentioned above, the investigation showed that all these types of plastic bags, including those with patented features, share the same basic physical and chemical characteristics: they are basically flexible containers made from polyethylene film used for the packaging and conveyance of goods. The use of the plastic bags is always the same, although the 'goods' being conveyed or packed may vary (e.g. retail items, foodstuffs, waste). In this respect it should be noticed that the basic Regulation does not require that investigations cover products that are identical in all aspects, e.g. in terms of production process, pricing, sales channels, uses or consumer perception. Rather, it has been the Commission's consistent practice to require that for product types to be considered as a single product it is enough that they share the same basic physical, technical and/or chemical characteristics.

(39) Consequently, all different types of plastic bags, falling within CN codes ex 3923 21 00, ex 3923 29 10 and ex 3923 29 90 originating in the PRC, Malaysia and Thailand are regarded as one single product for the purpose of the present investigation.

3. LIKE PRODUCT

(40) The Commission found that plastic bags produced and sold on the respective domestic markets in the PRC, Malaysia (which also served as an analogue country) and Thailand and those exported to the Community from the countries concerned, as well as those produced and sold in the Community by the Community industry, have the same physical, chemical and technical characteristics and uses. It is therefore concluded that all are like products within the meaning of Article 1(4) of the basic Regulation.

D. **DUMPING**

1. GENERAL METHODOLOGY

(41) The general methodology set out below has been applied to all cooperating exporting producers in Malaysia and Thailand, as well as for the cooperating Chinese exporting producers for which MET was granted. The presentation of the findings on dumping for each of the countries concerned therefore only describes matters specific to each exporting country.

1.1. **Normal value**

(42) In accordance with Article 2(2) of the basic Regulation, the Commission first examined for each exporting producer whether the domestic sales of the product concerned to independent customers were representative, i.e. whether the total volume of such sales was equal to or greater than 5 % of the total volume of the corresponding export sales to the Community.

(43) The Commission subsequently identified those product types sold domestically by the companies having overall representative domestic sales, which were identical or directly comparable with the types sold for export to the Community. The criteria used were the following: type of raw material used, dimensions, colouring, printing, closure, handles and presentation of the plastic bags.

(44) Domestic sales of a particular product type were considered as sufficiently representative when the volume of that product type sold on the domestic market to independent customers during the investigation period represented 5 % or more of the total volume of the comparable product type sold for export to the Community.

(45) The Commission subsequently examined whether the domestic sales of each type of plastic bag sold domestically in representative quantities by each company in each exporting country could be considered as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable domestic sales to independent customers, of each exported product type, on the domestic market during the investigation period:

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

(47) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type.

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

(49) Wherever domestic prices of a particular product type sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. In this regard, the Commission used constructed normal value, in accordance with Article 2(3) of the basic Regulation.

(50) Normal value was constructed by adding to each exporter's manufacturing costs of the exported types, adjusted where necessary, a reasonable amount for selling, general and administrative expenses (SG&A) and a reasonable margin of profit.

(51) In all cases SG&A and profit were established pursuant to the methods set out in Article 2(6) of the basic Regulation. To this end, the Commission examined whether the SG&A incurred and the profit realised by each of the exporting producers concerned on the domestic market constituted reliable data.

1.2. **Export price**

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

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

1.3. **Comparison**

(54) The comparison between normal value and export price was made on an ex-factory basis.

(55) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. For all investigated exporting producers, allowances for differences in transport costs, ocean freight and insurance costs, handling, loading and ancillary costs, packing costs, credit costs and commissions were granted where applicable and justified.

1.4. **Dumping margins**

(56) Pursuant to Articles 2(11) and (12) of the basic Regulation dumping margins were established on the basis of a comparison of a weighted average normal value by product type with a weighted average export price by product type as established above.

(57) The dumping margin for cooperating exporting producers, which made themselves known in accordance with Article 17 of the basic Regulation, but were not part of the sample, has been established on the basis of the weighted average of the dumping margins of the companies in the sample pursuant to Article 9(6) of the basic Regulation.

(58) It has been the consistent practice of the Commission to consider related exporting producers or exporting producers belonging to the same group as one single entity for the determination of a dumping margin and thus to establish one single dumping margin for them. This is in particular because calculating individual dumping margins might encourage circumvention of anti-dumping measures, thus rendering them ineffective, by enabling related exporting producers to channel their exports to the Community through the company with the lowest individual dumping margin.

(59) In accordance with this practice, the related exporting producers belonging to the same groups were regarded as one single entity and attributed one single dumping margin which was calculated on the basis of the weighted average of the dumping margins of the cooperating producers in the respective groups.

(60) In order to determine the dumping margin for non-cooperating exporting producers, the level of non-cooperation was first established. To this end, the volume of exports to the Community reported by the cooperating exporting producers was compared with the equivalent Eurostat import statistics.

(61) As the level of cooperation in Malaysia and Thailand was high (above 85 %) it was considered appropriate to set the residual dumping margin for any non-cooperating exporting producers in each of these countries concerned at the level of the highest duty imposed on a cooperating exporter.

(62) As regards China, it should be noted that although overall cooperation was high, three exporting producers provided false and misleading information and were thus declared non-cooperating according to Article 18 of the basic Regulation as described below. As these companies deliberately abstained from cooperation, the residual dumping margin for any non-cooperating exporting producer in the PRC was based on facts available. It was therefore considered appropriate that the residual dumping margin should be set at the level of the highest margins established for representative types imposed on a cooperating exporter not granted MET or IT. There were no indications that the non-cooperating exporting producers dumped at a lower level.

2. MALAYSIA

2.1. **Normal value**

(63) Three companies had globally representative domestic sales. However, given the lack of matching domestic and exported types, normal value had to be constructed for these companies in accordance with the methodology set out above. For the three companies without representative domestic sales, normal value also had to be constructed in accordance with the methodology set out above.

(64) For the three companies with representative domestic sales, their profit made in the ordinary course of trade was used to construct their normal value, as well as domestic SG&A based on their own domestic sales.

(65) For the three companies without representative domestic sales, an amount for SG&A expenses was determined on the basis of the average SG&A of the three companies with domestic sales.

(66) Since only one Malaysian exporter had overall profitable domestic sales of the like product, the average level of profit achieved on domestic sales of the same general category of products, 5,5 %, was used to construct normal value for the three companies with no domestic sales, in accordance with Article 2(6)(c) of the basic Regulation.

2.2. **Export price**

(67) The six exporting producers made export sales to the Community either directly to independent customers or through related trading companies located in the Community and Indonesia. Where the export sale was made via related importers based in the Community, the export price was constructed, pursuant to Article 2(9) of the basic Regulation, as set out in recital 53 above.

2.3. **Comparison**

(68) The normal value and export prices were compared on an ex-works basis, as described in recitals 54 and 55 above, with adjustments, where appropriate, in accordance with Article 2(10) of the basic Regulation.

(69) For the sales channelled through Indonesia, an adjustment of 3,3 % for commissions was applied in accordance with Article 2(10)(i) of the basic Regulation. The amount for commissions was based on the selling, general and administrative costs of the Indonesian company together with a profit margin of 3 %. Given that the profit of the Indonesian company was influenced by sales between related companies, the 3 % profit margin was determined on the basis of that achieved by an unrelated trader.

(70) Another exporter claimed that an adjustment should be added to their sales prices in the Community to account for the fact that their latest (after the IP) contract with the end customer allows for a price increase, allegedly to compensate the exporter for losses incurred during the IP due to raw material increase. Since no price adjustment was effected during the IP and there is no evidence of a relation between the new contract and the past evolution of costs, this cannot be granted.

2.4. **Dumping margins**

(71) The dumping margins, expressed as a percentage of the CIF import price at the Community border, duty unpaid, are the following:

— Dragonpak Industries (M) S/B, Johor Bahru	0 %
— Europlastics Malaysia S/B, Shah Alam	0 %
— Hond Tat Industries S/B, Klang	4,0 %
— Plastic V S/B, Klang	0 %
— Poly Carrier Industries S/B, Klang	0 %
— Sido Bangun S/B, Negri Sembilan	9,1 %
— Cooperating exporting producers not in the sample	7,3 %
— All other companies	9,1 %

(72) The Commission examined whether the country-wide level of dumping for Malaysia could be shown to be above the *de minimis* 2 % level as provided in Article 9(3) of the basic Regulation. It was considered appropriate for this purpose to extrapolate the results of the sample, including the companies with no dumping, to estimate the level of dumping of the non-sampled companies. The amount of dumping in the sample, expressed as a percentage of the CIF value of exports of the sample, was below 2 %. Therefore the overall dumping margin established for Malaysia was below the *de minimis* level. In these circumstances, the proceeding should be terminated as regards imports of the product concerned originating in Malaysia and no duties should be imposed.

(73) The Community industry argued that Article 9(3) of the basic Regulation does not provide for the determination of a countrywide *de minimis* dumping margin.

(74) This interpretation was rejected by the Commission. Article 9(3) of the basic Regulation clearly states that a proceeding must be terminated where the margin of dumping is less than 2 %. As a proceeding is opened against a country, this refers specifically to a country-wide margin.

(75) The Community industry also argued that Article 9(6) of the basic Regulation provides that zero and *de minimis* margins should be disregarded when calculating the dumping duty applicable to cooperating exporting producers outside the sample. However, this article merely establishes a *maximum* duty applicable to those exporting producers, when duties are to be applied. Given that the Malaysian exporting producers found dumping represent only a minor share of the total exports from Malaysia, it was considered appropriate, as mentioned in recital 72 above, to base the country-wide calculation on the extrapolation of the results of the whole sample.

3. THAILAND

3.1. **Normal value**

(76) Three companies had globally representative domestic sales. However, given the lack of matching domestic and exported types, normal value had to be constructed for these companies in accordance with the methodology set above. For the companies without representative domestic sales, normal value also had to be constructed in accordance with the methodology set out above.

(77) For those three companies, domestic SG&A based on their own domestic sales was used. For the two companies without representative domestic sales, an amount for SG&A expenses was determined on the basis of the average SG&A of the three companies with domestic sales.

(78) For two of the companies with representative domestic sales, profit made in the ordinary course of trade was used. For the third company with representative domestic sales, their own profit could not be used as less than 10 % of the sales were made in the ordinary course of trade.

(79) Since no Thai exporter had overall profitable domestic sales, a reasonable profit margin, based on the profit of one Thai company on the sales in the domestic market of the same general category of products was used to construct normal value for the two companies with no domestic sales, and for the one company having less than 10 % of domestic sales made in the ordinary course of trade, in accordance with Article 2(6)(c) of the basic Regulation.

3.2. **Export price**

(80) The exports of the five cooperating exporting producers were made directly to independent customers in the Community. The export prices were therefore based on the prices actually paid or payable for the product concerned in accordance with Article 2(8) of the basic Regulation.

3.3. **Comparison**

(81) The normal value and export prices were compared on an ex-works basis, as described above, with adjustments, where appropriate, in accordance with Article 2(10) of the basic Regulation.

3.4. **Dumping margins**

(82) The dumping margins, expressed as a percentage of the CIF import price at the Community border, duty unpaid, are the following:

— King Pac Industrial Co Ltd, Chonburi and Dpac Industrial Co., Ltd, Bangkok	14,3 %
— Multibax Public Co., Ltd, Chonburi	5,1 %
— Naraipak Co., Ltd and Narai Packaging (Thailand) Ltd, Bangkok	10,4 %
— Sahachit Watana Plastic Industry Co., Ltd, Bangkok	6,8 %
— Thai Plastic Bags Industries Co., Ltd, Nakhon-pathom	5,8 %
— Cooperating exporting producers not in the sample	7,9 %
— All other companies	14,3 %

4. PEOPLE'S REPUBLIC OF CHINA

4.1. **Market economy treatment (MET) and individual treatment**

(83) In anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of Article 2(7)(b) of the basic Regulation for those exporting producers which were found to meet the criteria laid down in Article 2(7)(c). Briefly, and for ease of reference only, these criteria are summarised below:

1. business decisions and costs are made in response to market conditions and without significant State interference;

2. accounting records are independently audited, in line with international accounting standards and applied for all purposes;

3. there are no significant distortions carried over from the former non-market economy system;

4. legal certainty and stability is provided by bankruptcy and property laws; and

5. currency exchanges are carried out at the market rate.

(84) From the cooperating exporting producers in the PRC considered for sampling, 108 requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form for exporting producers within the

given deadlines. Three companies claimed IT only and returned the MET claim form partially completed as requested. For the 10 companies investigated, the Commission sought all information deemed necessary and verified information submitted in the MET claims at the premises of the companies in question.

(85) It has been concluded that of the 10 Chinese exporting producers investigated, seven have demonstrated that they fulfil the five criteria of Article 2(7)(c) of the basic Regulation, and should therefore be granted MET, while it was determined for one exporting producer that it should not be granted MET.

(86) Furthermore, for the two remaining Chinese exporting producers investigated and one exporting producer not selected in the sample, it was found that they provided false and misleading information within the meaning of Article 18 of the basic Regulation.

(87) Two exporting producers did not declare their relationship with each other in their respective replies to the market economy claim form and anti-dumping questionnaire response and one of them submitted falsified evidence in order to partly hide the existing relationship.

(88) In this context, it should be noted that is the Commission's consistent practice to examine whether a group of related companies, as a whole, fulfils the conditions for MET. This is necessary to avoid the channelling of sales of a group of companies via one of the related companies in the group with an individual duty rate and MES status, should measures be imposed. Therefore, in cases where a subsidiary or any other related company is a producer and/or a seller of the product concerned, all such related companies have to be declared as being related to ensure that the related companies receive one dumping margin, should measures be imposed. Furthermore, all related companies involved in the production or sales of the product concerned have to provide a reply to the MET claim form in order that an examination can be made as to whether they also meet the criteria set out in Article 2(7)(c) of the basic Regulation. All related producers would also have to reply to the questionnaire.

(89) In the present case, although both companies individually complied with their obligation to submit a MET claim form, the related companies attempted to hide their relationship. As the relationship was not disclosed, one of the two related companies was not investigated together with the other one which was selected in the sample, as would normally have been the case. The information submitted to the Commission did thus not allow for proper investigation of all the related companies in the group. This led to the result that it could not be established that the group, as a whole, fulfilled the conditions for MET.

(90) As such, both the investigated exporting producer and its related company, a producer involved in the production and sale of the product concerned, were declared non-cooperating exporting producers.

(91) For the other remaining company it was found evidence that it had submitted knowingly wrong information in its questionnaire reply as far as export sales were concerned as well as falsified export invoices during the verification visit, as described in recital 112. It was considered that since it had been declared a non-cooperating exporter, no determination concerning their MET claim was relevant, as no individual margin could be calculated for this company in the present circumstances.

(92) The exporting producers concerned and the Community industry were given an opportunity to comment on the above findings.

(93) The Chinese exporting producer referred to in recital 85 could not demonstrate that it fulfilled criteria 1, 2 and 3 above and was therefore refused MET. The investigation of this company and its related companies showed that this group includes two producing entities, one being a Chinese company and the other a branch in China of the Hong Kong parent company. The company was not able to demonstrate that the management of this branch is not influenced by the Chinese State. Furthermore, the business licence of the Chinese producing company

states that a minimum percentage of the output should be exported. The company claimed that it could obtain from the local authorities the permission to sell domestically, i.e. obtain an unrestricted business licence. However, it did not substantiate this allegation and neither asked for the removal of the apparent restriction from its business licence, nor changed its Articles of Association in which the export requirement was also included. Consequently, it is concluded that the company did not provide sufficient evidence that it can freely and flexibly sell according to market signals, which would include being able to sell domestically. This restriction stems from significant State interference, i.e. a business licence which limits the company's scope of activity to the export market.

(94) The above means that the company's claim for individual treatment (IT) was also rejected as the company failed the criteria set out in Article 9(5)(b) of the basic Regulation namely that export prices and quantities were freely determined.

(95) In regard to criterion 2, given that the branch of the Hong Kong parent company is run on a cash basis, it is considered that its accounts do not comply with the accrual principle in accordance with international accounting standards (IAS). Furthermore, the lack of separation in the operations of this branch from those of the other producing company casts serious doubts on the accuracy of the accounts, in particular relating to costs, of both entities. Therefore the second criterion for MET cannot be considered to be fulfilled.

(96) As for the land use rights and factory building of this branch, the company did not clearly demonstrate how they were acquired, or whether they are subject to depreciation. Therefore the third criterion for MET cannot be considered to be fulfilled given that the company has not demonstrated that there are no distortions carried over from the former non-market economy system in relation to land use rights and the acquisition of the factory buildings.

(97) Another Chinese exporting producer had in its business licence and Articles of Association a provision stating that 100 % of the output of the company should be exported. As such, the company was subject to an export obligation during the IP and the Commission initially concluded that it was not free to take business decisions according to market signals and therefore, the first MET criterion was not met. However, this company submitted evidence that these restrictions had been removed in March 2006. The company also substantiated its decision not to sell in the domestic market in the period up to and including the IP by providing evidence that this decision was taken exclusively in view of the situation of the company and its market prospects, and was therefore, despite the export sales requirement in the business licence, in effect, free from State interference. Given that the company's business licence no longer contains the export sales requirement, and that the company substantiated its claim that the apparent restriction was already obsolete before its removal, the company meets the first MET criterion.

(98) The Chinese government and several exporters argued that the Commission only made a decision on the MET status of the sampled companies, thus failing to address the MET claims of around 100 non-sampled companies. According to their claim, the Commission is obliged to make individual determinations with regard to submitted MET claims irrespectively whether an exporter is sampled or not.

(99) It should first be noted that the Commission was faced in this proceeding with an unprecedentedly large number of cooperating exporters, i.e. more than 100. Against this background, the Commission had to ensure that the investigation could be carried out with the available resources, within the legal time frame and without compromising the standards of assessment of MET claims.

(100) The Commission considers that the existing provision on sampling (Article 17 of the basic Regulation) fully encompasses the situation of companies claiming MET. Indeed, exporters are by the nature of the sampling exercise denied individual assessment in both market economy countries and in economies in transition, and the conclusions reached for the sample are extended to them.

(101) Article 17 of the basic Regulation sets out a general method to deal with situations where an individual examination is no longer possible due to the high number of companies involved, i.e. the use of a representative sample. There is no reason why this method cannot equally be applied where the high number of companies involved includes a high number of companies requesting MET.

(102) Indeed, the question whether a sampled company applied for and received MET/IT or not is a technical question and only relevant for the methodology to determine the dumping margin. It only affects the data used for their dumping calculation, either the own data of the company or analogue country data is used. As in any other sampling case, a weighted average of all sampled companies is established, regardless of the methodology applied for the dumping calculation in respect of each company as a result of the MET/IT assessment. MET/IT should thus not prevent the application of normal sampling techniques.

(103) The key rationale of sampling is to balance administrative necessities to allow a case assessment in due time and within the margin of mandatory deadlines, with an individualised analysis to the best extent possible. The number of requests for MET in this case was so substantial that an individual examination of the requests – as sometimes done in other cases – was administratively impossible. Therefore, it was considered reasonable to apply equally to all non-sampled companies the weighted average margin resulting from all the companies selected for the sample, according to the criteria set out in recital 17, with no distinction being made between companies obtaining MET/IT or not.

(104) The Community industry contested the granting of MET to five of the companies detailed above.

(105) The Community industry argued that one of the companies granted MET is widely regarded as a State company, and that having been until recently one of the major State-owned trading groups, it is still likely to benefit from a favourable position with regard to the Chinese State, and be influenced by it. The Community industry also pointed out that the transfer of assets from the former state-owned company to the current company has potential carry-over effects. The Commission verified the ownership and control structures of this company and concluded that since 2002 it has been managed by private investors, free from State control. The Commission also examined the transfer of assets from the State-owned company and is satisfied that it took place under market economy conditions. No evidence has been presented that would challenge those conclusions. The Community industry also argued that because the company has benefited from an export subsidy it should not be granted MET. However, the amount and nature of this subsidy do not justify that MET be refused.

(106) Concerning another company granted MET, the Community industry claimed that since its exports are largely manufactured through tolling arrangements with the company referred to above it should also be denied MET. However, given that it has been found that the first mentioned company fulfils the MET criteria, there are no grounds to consider that this company does not fulfil the criteria because of the tolling arrangement between the two companies.

(107) Concerning a third company granted MET, the Community industry considered that the fact that the company has yet to make a profit means that it cannot be operating under market economy conditions. However the Commission considered that this is not abnormal during the start-up phase and is compatible with market economy conditions. The Community industry also argued that the fact that the company's business licence contained during the IP a minimum export requirement is incompatible with the first MET criterion. The Commission however considers that this did not amount to an effective restriction during the IP. Firstly because the restriction was removed in the 2005 business licence, and secondly because the percentage of export sales was always significantly above the threshold stipulated in the old business licence, which indicates that the restriction in the business licence was already obsolete. Finally, the Community industry argued that an auditor's remark concerning the valuation of raw materials by this third company means that its accounts are not reliable. The

Commission however considers that the fact that the auditor made this remark, and that the company took measures to rectify the situation, confirms that its accounts are independently audited and reliable.

(108) Concerning a fourth company granted MET, the Community industry claimed that there was state interference in the labour policy of the company as the local administration approved the labour contract used. However this approval was for the structure of the template contract, and not its specific terms. As such, this was not considered state interference.

(109) Finally the Community industry disputed the granting of MET to a fifth company whose Articles of Association contained, during the IP, a provision that all production should be exported. However, this company sold the product concerned on the Chinese domestic market both before and during the IP. In 2005 the company removed any restrictions from its Articles of Association and in these circumstances there is no reason for MET not to be granted.

(110) The two Chinese exporting producers mentioned in recitals 87 to 90 which were declared non-cooperating, objected to the Commission's services conclusions that they should be treated as non-cooperating and should be denied MET. However, the companies did not provide a convincing explanation or element that would refute the evidence which is at the disposal of the Commission and was collected during the on-the-spot verification visits at the premises of one of the companies. It was therefore confirmed that they should be treated as non-cooperating producers in this proceeding and denied MET accordingly.

(111) The Advisory Committee was consulted and the parties directly concerned were informed accordingly. The main arguments raised by exporters and the Community industry have already been addressed above.

4.2. **Non-cooperation of companies with the investigation**

(112) Various allegations were received by the Commission concerning the company described in the latter part of recital 86 which placed in question the validity of the information received by the Commission during the on-the-spot investigation, in their MET claim and their questionnaire response. These allegations were verified and it was found indeed that the export invoices submitted during the on-the-spot verification must have been manipulated to pretend a considerably higher export price.

(113) The evidence was presented to the company, which contested the view that this was sufficient to consider the company not cooperating with the investigation under Article 18 of the basic Regulation. However it was unable to explain the difference between these documents, and as such it was confirmed that it should be treated as non-cooperating in this proceeding. Indeed, given the nature of the non-cooperation, i.e. the submission of wrong information and the falsification of documents, as well as the time when this was found out, i.e. towards the very end of the investigation, the information submitted by this company has to be rejected totally as it cannot be ruled out that other information and documents submitted are equally affected by such behaviour.

4.3. **Normal value**

4.3.1. *Determination of normal value for exporting producers granted MET*

(114) Three companies of the seven granted MET had globally representative domestic sales. However, given the lack of matching domestic and exported types, normal value had to be constructed for these companies in accordance with the methodology set out above. For the remaining four companies without representative domestic sales, normal value also had to be constructed in accordance with the methodology set out above.

(115) For the three companies with representative domestic sales, their profit made in the ordinary course of trade was used, as well as domestic SG&A based on their own domestic sales.

(116) For the four remaining companies granted MET who did not have representative domestic sales, an amount for SG&A expenses was determined on the basis of the average SG&A of the three companies with representative domestic sales.

(117) As only one Chinese exporting producer granted MET had overall profitable domestic sales of the like product, a reasonable profit margin, based on the profit of this one company on the sales in the domestic market of the same general category of products, was used to construct normal value for the four companies with no domestic sales, in accordance with Article 2(6)(c) of the basic Regulation.

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

(a) Analogue country

(118) According to Article 2(7)(a) of the basic Regulation, in economies in transition, normal value for exporting producers not granted MET has to be established on the basis of the price or constructed value in an analogue country.

(119) In the notice of initiation, the United States was proposed as an appropriate analogue country for the purpose of establishing normal value for the PRC. The Commission invited all interested parties to comment on this.

(120) Various interested parties submitted comments proposing Malaysia, Thailand, Indonesia or India as the analogue country. Information was already available relating to producers in Malaysia and Thailand through their co-operation in this investigation. In addition, other known companies were contacted in the United States, Indonesia and India with a view to determining whether those countries could be used as analogue countries. Only one company in the United States and two companies in India indicated their willingness to cooperate, but no questionnaire replies were received from any of these producers.

(121) In the absence of cooperation from companies in the other possible analogue countries, the suitability of Malaysia was examined. It was found that Malaysia has a representative domestic market, where a wide range of types of the product concerned are produced and sold and a large number of suppliers ensured a sufficient level of competition. The investigation established that significant domestic sales in the ordinary course of trade were made by three cooperating sampled exporting producers in Malaysia.

(122) Following the disclosure of the Commission information document which proposed Malaysia as analogue country, the Community industry argued that the Commission should use the USA as an analogue country, given the small domestic market in Malaysia and the high import duties in force compared to those of the United States.

(123) This argument was rejected given the significant domestic sales in Malaysia of the product concerned. Furthermore, it was found, that, while the import duties in Malaysia were high (30 %), imports from ASEAN countries, which were significant, benefited from a preferential rate (5 %) that was in line with duties in the USA. It should also be noted that despite the best efforts of the Commission no cooperation from any US producer of the product concerned was forthcoming.

(124) Given the lack of cooperation from companies in the USA, India and Indonesia, and the finding of no dumping from Malaysia, it was decided to use Malaysia as analogue country for the PRC.

(b) Normal value

(125) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the cooperating exporting producer not granted MET was established on the basis of verified information received from the producer in the analogue country, i.e. on the basis of prices paid or payable on the domestic market of Malaysia, for product types which were found to be made in the ordinary course of trade, in accordance with the methodology set out above. Where necessary, those prices were adjusted so as to ensure a fair comparison with those product types exported to the Community by the Chinese producer concerned.

(126) As a result, normal value was established as the weighted average domestic sales price, in the ordinary course of trade, to unrelated customers by the cooperating producers in Malaysia with representative domestic sales.

4.4. **Export price**

(127) The Chinese exporting producers made export sales to the Community either directly to independent customers or through trading companies located in Hong Kong and the Community. Export prices were determined using the general methodology set out above. For the sales channelled through related sales companies in Hong Kong, an adjustment for commissions was applied in accordance with Article 2(10)(i) of the basic Regulation where it was shown that these related sales companies performed the duties of a commission agent. The amount for commission was based on the SG&A expenses of the sales company and a profit margin of 3 % was used based on the information gathered from unrelated traders in HK.

4.5. **Comparison**

(128) The normal value and export prices were compared on an ex-works basis, as described above, with adjustments, where appropriate, in accordance with Article 2(10) of the basic Regulation.

(129) One Chinese exporting producer claimed an adjustment under Article 2(10)(d) of the basic Regulation, corresponding to the market value of the difference in levels of trade between the export sales and some of the sales in the domestic market. However, the amounts claimed by the company could not be supported through the corresponding difference in price levels in the domestic market and the adjustment was therefore not granted.

4.6. **Dumping margins**

(130) The dumping margins, expressed as a percentage of the CIF import price at the Community border, duty unpaid, are the following:

— Cedo (Shanghai) Limited and Cedo (Shanghai) Household Wrappings Co., Ltd, Shanghai	7,4 %
— Chun Yip Plastics (Shenzhen) Ltd, Shenzhen	14,8 %
— Huizhou Jun Yang Plastics Co., Ltd, Huizhou	4,8 %
— Jinguan (Longhai) Plastics Packing Co., Ltd, Longhai	5,1 %
— Sunway Kordis (Shanghai) Ltd. and Shanghai Sunway Polysell Ltd, Shanghai	4,8 %
— Suzhou Guoxin Group Co. Ltd, Suzhou Guoxin Group Taicang Yihe Import & Export Co., Ltd, Taicang Dongyuan Plastic Co., Ltd and Suzhou Guoxin Group Taicang Giant Packaging Co., Ltd, Taicang	7,8 %
— Zhong Shan Qi Yu Plastic Products Co., Ltd, Zhongshan	5,7 %
— Sampled cooperating exporting producers not granted IT, and cooperating exporting producers not in the sample	8,4 %
— Wuxi Jiayihe Packaging Co., Ltd and Wuxi Bestpac Packaging Co., Ltd, Wuxi (not part of the sample)	12,8 %
— All other companies	28,8 %

(131) A dumping margin was calculated for the cooperating company in the sample that was not granted MET or IT, as shown above, for the purpose of calculating an average dumping margin for the entire sample. However, that company will not receive an individual duty rate, as described below in recital 227, since it was not granted MET or IT.

E. **INJURY**

1. COMMUNITY PRODUCTION

(132) The product concerned is manufactured in the Community by hundreds of producers. The industry is very fragmented and comprises predominantly small and medium sized companies.

(133) In calculating Community production, during the IP, the estimated Community consumption estimated as explained in recitals 158 and 159 was taken as a starting point. Imports into the Community, as registered by Eurostat, were subtracted from the consumption figure. The resulting production figure was adjusted, where necessary, on the basis of information submitted by national associations of producers. This quantity was subsequently reduced with the production quantities of the companies not included in the definition of Community industry as referred to in recital 153. The calculation resulted in a total Community production of 1 175 000 tonnes.

(134) Certain exporting producers, importers and retailers argued that the percentage of the Community industry's production in relation to the total Community production was below 25 %, and therefore the proceeding should be terminated due to the lack of support for the case. This submission was based on the argument that according to a major commercial market intelligence provider, AMI ([1]), the estimated quantity of extruded polyethylene film used for the production of the like product would account for more than the Community production figure used in the assessment of support.

(135) AMI provides certain information concerning the polyethylene film industry in its following two reports referred to by certain parties:

— polyethylene film extruders, 6th edition (ISBN 1 904188 12 5), and

— polyethylene film industry in Europe, 7th edition (and ISBN 1 904188 17 6)

(136) At the Commission's request AMI gave permission to reproduce extracts of the reports referred to above. It should be noted that, in the 'Publisher's notice' to these reports, AMI mentions that 'no legal responsibility is accepted for any errors or omissions in that information, whether such errors or omissions result from negligence, accident or any other cause, and no responsibility is accepted with regard to the standing of any firms and companies mentioned'. Furthermore, the permission to reproduce information contained in the above reports was obtained only subject to the following specific disclaimer: '(AMI) are not responsible for any mis-interpretation of our information on the part of any of the industry contacts who have liaised with (the Commission) or indeed interpretation put on (AMI) data by the European Commission'.

(137) It should also be noted that, whereas AMI provides certain information concerning the polyethylene film industry in the two abovementioned reports, it does not present any estimation of the market size of the product under investigation in the Community as such. The AMI reports estimate the end-use applications of extruded polyethylene film as follows ([2]):

Product group	% of end-use applications of polyethylene film
i) Coex/laminating film	8,2 %
ii) Other film	6,8 %
iii) Shrink film	13,8 %
iv) Stretch film	14,4 %
v) Agriculture/building	8,0 %
vi) Film on the reel	15,3 %
vii) Heavy duty sacks	7,5 %
viii) Refuse sacks	5,8 %
ix) Shoppers	8,3 %
x) Other bags/sacks	11,9 %
Total	100 %

([1]) Applied Market Information Ltd, web address: www.amiplastics.com

([2]) AMI (web address: www.amiplastics.com), Polyethylene film extruders, 6th edition (ISBN 1 904188 12 5), p. 12.

(138) The AMI reports ([1]) do not define the precise methods for the calculation of production figures or consumption of raw materials. It is estimated in the reports that the consumption of polyethylene for film extrusion in Europe, as defined in recital 139, would have been 7 699 000 tonnes in 2004. When mentioning production, AMI refers to throughput figures, which, as shown by the investigation, would usually represent the quantity of polyethylene processed through an extruder. With regard to sacks and bags production, this throughput figure would contain quantities of industrial waste (cutting waste, start-up waste and other inferior quality extruded film) which is effectively recycled in the process. Therefore, recycling of this waste would result in double counting because certain quantities of the originally virgin raw material are put through the extrusion process more than once.

(139) AMI expresses all production figures as percentages representing end use applications of consumption of polyethylene for film extrusion in Europe. The geographical coverage of the report is France, Germany, Italy, United Kingdom, Benelux (Belgium, Netherlands and Luxembourg), Scandinavia (Denmark, Finland, Norway and Sweden), Spain, other Western Europe (Austria, Ireland, Greece, Portugal, Switzerland) and Central Europe (Poland, Hungary, Romania, Czech and Slovak Republics) ([2]). The report does not cover Estonia, Latvia, Lithuania, Malta and Cyprus of the Member States but it does cover Switzerland, Norway and Romania which do not fall under the scope if this investigation.

(140) As the AMI figures cover a geographical region different from that of the Community, the consumption of polyethylene for extrusion in the Community had first to be established. In this regard, two polyethylene resin suppliers in the Community submitted that the consumption of polyethylene resin for film extrusion ranged between 6 100 000 and 6 500 000 tonnes in the Community during 2004. The quantities referred to below have, therefore, been calculated by using this range of consumption.

(141) The parties referred to in recital 134 argued that categories (vii), (viii), (ix) and (x) of the categories listed above in recital 137 should be included in the product under investigation in part or in full.

(142) It seems clear that the category 'shoppers' would fall in the product under investigation based on their physical characteristics representing 8,3 % (i.e. from 506 300 to 539 500 tonnes) of the end uses. However, it is also likely that part of the refuse sacks, representing in total 5,8 % (i.e. from 353 800 to 377 000 tonnes) of the end uses, does not fall under this definition because refuse sacks are likely to include sacks of more than 100 microns in thickness and thus part of this category should be excluded from the definition.

(143) Certain parties alleged that up to 65 % of the category called 'film on the reel' representing 15,3 % ([3]) of the total end uses) would fall under the definition of the product under investigation. In this regard it is recalled that AMI itself mentions this category as containing uses 'such as laundry film, hygiene film, tissue overwrap and general surface protection films'. It is to be noted that the mentioned end-use applications are defined as 'film' and thus do not fall under the category of bags and sacks. Moreover, the on-the-spot verifications carried out in the course of the investigation at the premises of seven production plants of five Community producers in two countries showed that film on the reel, extruded externally, was not used in the production of the like product. Furthermore, the verification visits carried out at the premises of 21 exporting producers in the three countries concerned gave no support to the claim that film on the reel, extruded externally, would be used in the production of the product concerned. Based on the above, the argument that a large part of the category 'film on the reel' should be included in the production of the like product in the Community had to be rejected.

(144) It was also claimed by some parties that the end use application defined in the report as 'other bags/sacks', representing 11,9 % ([4]) of the total end uses, should be included in the Community production figures. It is to be noted that these parties did not substantiate this claim in terms of quantities. This category is reported as 'other film' in 'AMI's guide to the polyethylene industry in Europe' in its country-specific production figures and is not defined as bags or sacks on this level. Whilst it is unclear which products are included by AMI in the category 'other sacks and bags', at least all those products not falling under the product description should be excluded from the estimate. In this regard, according to certain parties, the category other 'sacks and bags' also includes film used for 'FFS — packaging' for food or 'form, fill and seal — packaging', which is a type of packaging where a bag is formed, filled and

([1]) AMI (web address: www.amiplastics.com), Polyethylene film extruders, 6th edition (ISBN 1 904188 12 5), p. 10.
([2]) AMI (web address: www.amiplastics.com), Polyethylene film extruders, 6th edition (ISBN 1 904188 12 5), p. 7.
([3]) AMI (web address: www.amiplastics.com), Polyethylene film extruders, 6th edition (ISBN 1 904188 12 5), p. 12.
([4]) AMI (web address: www.amiplastics.com), Polyethylene film extruders, 6th edition (ISBN 1 904188 12 5), p. 6.

sealed in an integrated process. FFS equipment is typically fully automatic. This product is not sold as bags or sacks nor do imports of this product fall within CN codes 3923 21 00, 3923 29 10. and 3923 29 90. Given that the estimates of the interested parties, concerning the share of the product under investigation in this group, varied between 15 % and 100 % and were not substantiated it was not possible to make an accurate estimation as to which proportion of this group should be included in the product under investigation. Therefore, in view of the fact that there was an absence of any substantiated information in this regard, it was considered reasonable to include 50 % of this product category for the purposes of this calculation. The resulting production in this group would thus be in the range from 363 000 to 387 000 tonnes.

(145) Certain parties claimed that up to 1 million tonnes of recycled material would be used for the production of the like product. According to AMI approximately 1 million tonnes [1] of reclaimed material would indeed be used in polyethylene extrusion. AMI does not specify into which particular product categories this usage can be allocated. Moreover, the on-the-spot verifications showed that there is a very limited supply of post-consumer recycled material on the market, whilst industrial waste created in the production process is efficiently recycled. In this regard, it is to be noted that industrial waste is already included in the production figures when used as virgin material and thus any inclusion of this quantity in the production would result in double counting. The investigation showed that post-consumer recycled material is mainly used for production of refuse sacks. Certain parties argued that up to 25 % of the raw material of this category of the like product would be post-consumer recycled material. Based on the information received from interested parties this could amount to 20 % of the production of these bags. As this quantity is not already included in AMI's end-use estimate of this product this quantity should be added on top of this production estimate. Therefore, a corresponding adjustment of 20 % was made in the quantity of refuse sacks resulting in additional production of the product concerned in the range from 88 000 to 94 000 tonnes.

(146) The resulting total production quantity, based on the considerations presented in recitals 135 to 145, is in the range from 1 311 000 to 1 398 000 tonnes of product under investigation. This estimate however contains all refuse bags and it should be recalled that some refuse sacks can be more than 100 microns in thickness and thus outside the product definition. Therefore this range represents rather an overestimate of the production.

(147) To arrive at the Community production, the production of companies excluded from the Community industry representing 119 000 tonnes of production should be subtracted from the above figures. This results in a Community production in the range from 1 193 000 to 1 279 000 tonnes of production of the product under investigation. The estimate of the Community production at initiation of the proceeding of 1 240 000 tonnes falls within the range of this calculation and the 25 % threshold concerning the support to the case is fulfilled to the upper limit of the range.

(148) The above analysis clearly shows that the information referred to by certain parties mentioned above in recital 134 is not such as to undermine the estimate of the Community production of the product under investigation prepared by the Commission which is referred to in recital 150.

(149) On the basis of the above, the arguments concerning the lack of support of the case made by these parties had to be rejected.

2. DEFINITION OF THE COMMUNITY INDUSTRY

(150) At initiation stage, the accumulated production of the 29 complaining Community producers represented 331 500 tonnes, i.e. 26,7 % in relation to the total Community production of 1 240 000 tonnes measured at the stage of initiation. The accumulated production of Community producers opposing the proceeding amounted to less than half of the aforementioned amount of support.

(151) In addition, it is noted that another 21 companies with a total production of 302 000 tonnes supported the complaint at initiation stage. Thus, in total the complaint was supported by Community producers representing more than 50 % in relation to the total Community production of 1 240 000 tonnes.

[1] AMI (web address: www.amiplastics.com), Polyethylene film extruders, 6th edition (ISBN 1 904188 12 5), p. 10.

(152) During the investigation five of the complaining Community producers failed to cooperate with the investigation. At the same time seven other producers supporting the proceeding, cooperated with the investigation.

(153) Another three cooperating companies were excluded from the definition of the Community industry and their production was thus not included in the production of the Community industry as one company was importing significant quantities from its related exporter in China and two other companies imported significant quantities in relation to their production in the Community from the countries concerned. A fourth company, which opposed the proceeding and which did not cooperate with the investigation as a Community producer, was also excluded from the definition of the Community industry as it had a related exporting producer in one of the countries concerned and it imported significant volumes of the product concerned into the Community in relation to its production in the Community.

(154) Certain parties claimed that the company opposing the proceeding, British Polyethylene Industries plc (BPI), had been excluded from the definition of the Community industry and thereby from the total Community production, whereas another company supporting the proceeding, Cedo Ltd, had been included, even though both companies had a similar situation having production both in the Community and in the countries concerned. To this end it has to be noted that both companies were treated on an equal basis and both companies were excluded based on the reasons set out in recital 153.

(155) Certain parties argued that two of sampled Community producers should be excluded from the definition of the Community industry as they imported considerable quantities of the product concerned originating in the PRC and Thailand. In this respect, it should be firstly noted that, whereas it is indeed a long-standing practice that importing Community producers should be excluded from the Community industry if they are either shielded from dumping or benefiting from it, they are not excluded if it is found that the Community producers were forced to have a temporary and very limited recourse to imports, because of the depressed price situation in the Community market. In this case, the total imports of these two companies during the IP represented 1 % and 0,1 % of their respective total production. Given the small quantities at stake, the two Community producers can be considered part of the definition of the Community industry within the meaning of Article 4(1) of the basic Regulation. On this basis, the argument was rejected.

(156) The 24 complaining Community producers and the seven other producers having cooperated with the investigation are therefore deemed to constitute the Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation. Overall these companies represent approximately 358 000 tonnes or 31 % of the Community production measured during the investigation.

(157) It is noted that another nine companies, representing 57 000 tonnes of production expressed their support to the investigation, however, these companies did not manage to cooperate fully with the investigation and were thus not included in the definition of the Community industry.

3. COMMUNITY CONSUMPTION

(158) The apparent Community consumption was established on the basis of data reported in the complaint lodged by the complainant. The complainant's market intelligence in various markets and data derived from market information provided by two commercial agencies was taken as basis. The information gathered concerning the market in Belgium, France, Italy, Luxembourg, the Netherlands and Spain was then used to extrapolate the community consumption in the remaining Member States.

(159) Based on the above analysis, the Community consumption increased throughout the period considered by 6 % from the beginning of the period considered, i.e. from 1 582 000 tonnes in the year 2001 to 1 674 000 tonnes in the IP. Detailed data, expressed in tonnes, is as follows:

Consumption	2001	2002	2003	2004	IP
1 000 tonnes	1 582	1 618	1 653	1 670	1 674
Index	100	102	104	105	106

Source: Complaint

4. IMPORTS FROM THE COUNTRIES CONCERNED

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

(160) The Commission examined whether imports of certain plastic sacks and bags originating in the countries concerned should be assessed cumulatively in accordance with Article 3(4) of the basic Regulation. This Article provides that the effects of imports from two or more countries simultaneously subject to anti-dumping investigations are to be assessed cumulatively only if it is determined that (a) the margin of dumping established in relation to the imports from each country is more than *de minimis* as defined in Article 9(3) of the basic Regulation and that the volume of imports of each country is not negligible and (b) a cumulative assessment is appropriate in the light of the conditions of competition between imported products and the conditions of competition between the imported products and the like Community product.

(161) As the overall dumping margin for Malaysia was found to be below 2 %, i.e. below *de minimis,* imports from Malaysia were excluded from the cumulative assessment. In that regard, the dumping margins established in relation to the imports originating in the PRC and in Thailand were found to be above the *de minimis* level of 2 % set forth in Article 9(3) of the basic Regulation. Furthermore, since during the IP imports from the PRC represented a market share of 14,4 % and imports from Thailand a market share of 4 %, the volumes of imports from the PRC and Thailand were not negligible.

(162) As regards the conditions of competition, the investigation showed that the products imported from the PRC and Thailand were alike in all their essential physical characteristics. Furthermore, on that basis, plastic sacks and bags imported from the PRC and Thailand were interchangeable and were marketed in the Community during the period considered through comparable sales channels and under similar commercial conditions. Imports from both countries showed similar trends of prices and volumes and both showed significant levels of undercutting. Moreover, it is recalled that the imported product was found to be alike to plastic sacks and bags produced in the Community and as such competes with them under the same conditions of competition.

(163) In the light of the above, it is considered that all the criteria set out in Article 3(4) of the basic Regulation were met and that imports from the PRC and Thailand should therefore be examined cumulatively.

5. VOLUME OF THE IMPORTS CONCERNED AND MARKET SHARE

(164) The volume of dumped imports of the product concerned originating in the PRC and Thailand as reported by Eurostat increased from approximately 219 000 tonnes in 2001 to 307 000 tonnes in the IP representing an increase of 40 %. The sharp increase in imports over the period concerned has absorbed 96 % of the increase in consumption that occurred in the Community market over the same period.

(165) All imports of the product concerned were declared under CN code ex 3923 21 00 (sacks and bags of polymers of ethylene). Imports under CN codes ex 3923 29 10 (sacks and bags of polyvinyl chloride) and ex 3923 29 90 (sacks and bags of other plastics) were not included in the calculation, as according to the available information there was no production of sacks and bags where polyethylene does not predominate by weight, and, consequently, there are currently no imports of the product concerned under these CN codes.

Cumulated imports	2001	2002	2003	2004	IP
in 1 000 tonnes	219	239	288	299	307
Index	100	109	132	137	140

(166) During the period considered, the dumped imports originating in the PRC and Thailand increased their share of the Community market by 33 % from 13,8 % in 2001 to 18,3 % in the IP.

Market share	2001	2002	2003	2004	IP
Cumulated	13,8 %	14,8 %	17,4 %	18,0 %	18,3 %
Index	100	107	126	130	133

6. PRICES OF THE IMPORTS CONCERNED AND PRICE UNDERCUTTING

(167) Price information given below was derived from Eurostat data based on the import volumes established using the methodology described above. This information showed that between 2001 and the IP, the average CIF prices of imports originating in the PRC and Thailand decreased by 14 %. Prices hit rock bottom in 2003 and increased slightly until the IP. However, they did not reach the price level of 2001 and 2002 and remained on a low level.

Prices of imports in euro/kg	2001	2002	2003	2004	IP
Cumulated	1,42	1,25	1,09	1,16	1,22
Index	100	88	77	82	86

(168) For the determination of the price undercutting of the imports concerned, the Commission based its analysis on the information submitted in the course of the investigation by the sampled exporting producers and the sampled Community producers. This analysis compared per product type the actual CIF prices of the exporting producers at Community frontier level adjusted by any post-importation costs with the relevant weighted average sales prices to independent customers of the Community industry adjusted to ex-works level.

(169) This comparison showed that during the IP, based on product types as defined in the questionnaire and on a weighted average basis, the products concerned originating in the countries concerned were sold in the Community at prices which undercut the Community industry's prices, when expressed as a percentage of the latter, between 4,1 % to 37,9 % for the PRC and Thailand.

7. ECONOMIC SITUATION OF THE COMMUNITY INDUSTRY

7.1. **Preliminary remarks**

(170) Pursuant to Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all relevant economic factors and indices having a bearing on the state of the Community industry during the period considered. This analysis was carried out for the sampled companies as mentioned above. On this basis, the industry's performance as measured by factors such as prices, wages, investments, profits, return on investment, cash flow and ability to raise capital has been established on the basis of information from the sampled companies. However, in order to provide a complete picture of the situation of the Community industry, for those indicators for which reliable information was available for the

Community industry as a whole, this information has also been provided below. Therefore, injury factors such as market share, sales volume, employment, production capacity, inventories and production have been established for the full Community industry.

7.2. **Production capacity, production, capacity utilisation**

(171) The Community industry's production capacity increased during the period considered by 66 000 tonnes or by 17 %. Over the same period production only increased by 9 %. Consequently, the capacity utilisation rate of the Community industry decreased by 6 %.

Production 1 000 tonnes	2001	2002	2003	2004	IP
Production	328	346	353	359	358
Index	100	105	107	109	109
Production capacity	399	423	444	463	465
Index	100	106	111	116	117
Capacity utilisation %	82	82	80	78	77
Index	100	99	97	94	94

Source: Questionnaire replies of the Community industry.

7.3. **Inventories**

(172) Six non-sampled producers could not provide consistent information on their inventories due to insufficient information supplied by their stock-management systems regarding the like product. Accordingly, data from these companies had to be excluded when carrying out the analysis of stocks for the period considered. This analysis was based on the information provided by the sampled producers and 20 non-sampled producers.

Stocks	2001	2002	2003	2004	IP
Tonnes	24 110	26 446	26 757	25 016	28 994
Index	100	110	111	104	120

Source: Questionnaire replies of the Community industry.

(173) During the IP, inventories of finished products represented around 8 % of the Community industry's total production volume. The level of closing stocks of the Community industry first increased by 11 % in 2003 and then marked a decrease of 7 percentage points in 2004, before rising by to 20 percentage points in the IP compared to 2001.

7.4. **Sales volume, market share and growth**

(174) The sales volume of the Community industry increased by 10 % during the period considered. It reached a peak in 2004, but then declined slightly in the IP. The overall proportional increase was higher than the increase of the total consumption which was 6 %.

Sales volume	2001	2002	2003	2004	IP
tonnes	308 068	330 103	334 818	341 701	338 940
Index	100	107	109	111	110

Source: Questionnaire replies of the Community industry.

(175) The market share of the Community industry has increased by 4 % over the period considered. After a first increase of 5 % between 2001 and 2002, it remained unchanged until 2004 and showed a slight decrease in the IP. At the same time Community consumption increased by 6 % over the period considered. Therefore, the Community industry was able to take advantage of the growth of the market between 2001 and the IP.

Market share	2001	2002	2003	2004	IP
%	19,5 %	20,4 %	20,3 %	20,5 %	20,2 %
Index	100	105	104	105	104

Source: Questionnaire replies of the Community industry.

7.5. **Employment, productivity and wages**

(176) The level of employment of the Community industry decreased over the period considered by 1 %. Over the same period, its productivity, measured as output per person employed per year, increased by 10 %.

	2001	2002	2003	2004	IP
Number of employees	3 325	3 353	3 381	3 338	3 302
Index	100	101	102	100	99
Productivity: production per employee	99	103	104	108	108
Index	100	104	105	109	109

Source: Questionnaire replies of the Community industry.

(177) Over the period considered the total annual cost of labour per employee increased by 7 %. After an increase of 8 % between 2001 and 2004, the average wage decreased by 1 % between 2004 and the IP.

	2001	2002	2003	2004	IP
Total labour cost per employee in euro	32 801	34 507	34 794	35 533	35 217
Index	100	105	106	108	107

Source: Questionnaire replies of the sampled Community industry.

7.6. **Sales prices**

(178) The sampled Community industry producers' average net sales price decreased from 1,50 euro per kg in 2001 to 1,47 euro per kg in the IP. Prices first decreased by 4 % in 2002 and by a further 2 % in 2003. Between 2003 and 2004 they showed a slight increase of 0,7 % and increased further by 3,5 % in the IP. This rather stable price development should be seen in the light of the development of raw material prices which increased considerably, i.e. by 23 %.

	2001	2002	2003	2004	IP
Sales prices to unrelated customers in the Community in euro/kg	1,50	1,44	1,41	1,42	1,47
Index	100	96	94	95	98

Source: Questionnaire replies of the sampled Community industry.

7.7. **Profitability**

(179) During the period considered the profitability of the sampled Community industry producers' sales in the Community to unrelated customers fell by 82 %. In the years 2001 to 2002 the sampled Community industry still reached a sustainable level of profitability. However, between 2002 and the IP profitability showed a continuous strong decrease, reaching only 1,1 % in the IP, while several of the sampled companies recorded losses.

	2001	2002	2003	2004	IP
Profitability	6,3 %	6,9 %	4,0 %	2,5 %	1,1 %
Index	100	110	63	40	17

Source: Questionnaire replies of the sampled Community industry.

7.8. **Investments and return on investments**

(180) The Community industry's annual investment in the production of the like product declined by 30 % during the period considered from approximately EUR 16 million to less than EUR 12 million.

	2001	2002	2003	2004	IP
Investments (1 000 euro)	16 474	20 956	11 363	16 830	11 507
Index	100	127	69	102	70

Source: Questionnaire replies of the sampled Community industry.

(181) The sampled Community industry producers' return on investment, which expresses their pre-tax result as a percentage of the average opening and closing net book value of assets employed in the production of the like product, decreased dramatically as a result of decreasing profitability. Whereas the return on investment remained stable between 2001 and 2002, it thereafter declined sharply to 6 % in the IP representing an overall decrease of 84 % between 2001 and the IP.

	2001	2002	2003	2004	IP
Return on investment %	37 %	37 %	20 %	12 %	6 %
Index	100	100	54	32	16

Source: Questionnaire replies of the sampled Community industry.

7.9. **Cash flow**

(182) The sampled Community industry producers recorded a net cash inflow from operating activities during the period considered. However, when expressed as a percentage of turnover, the net cash inflow showed a marked decline in percentage terms, especially during the IP, in line with the decrease in profitability.

	2001	2002	2003	2004	IP
Cash flow (in 1 000 euro)	14 965	23 307	17 652	17 598	4 706
Index	100	156	118	118	31

Source: Questionnaire replies of the sampled Community industry.

7.10. **Ability to raise capital**

(183) Much of the Community industry is made up of small or medium sized enterprises. In consequence, the Community industry's ability to raise capital was reduced to some extent during the period considered, especially in the latter part thereof, when profitability was extremely low.

7.11. **Recovery from past dumping or subsidisation**

(184) The Community industry was not in a situation where it had to recover from past effects of injurious dumping or subsidisation.

7.12. **Magnitude of dumping margin**

(185) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the PRC and Thailand, this impact is substantial.

8. CONCLUSION ON INJURY

(186) The examination of the above mentioned factors shows that between 2001 and the IP, the dumped imports increased sharply in terms of volume and market share. In fact, their volume increased by 40 % during the period considered and they achieved a market share of 18,3 % in the IP. It is to be noted that in the IP they accounted for approximately 57 % of total imports of the product concerned into the Community. Moreover, in the IP, the sales prices of the Community industry were substantially undercut (from 4,1 % to 37,9 %) by those of the imports of the product concerned. As a consequence, the Community industry's prices were depressed and reached close to break even level.

(187) A deterioration of the Community industry situation was found during the period considered. The Community industry suffered a dramatic decline of 5,2 percentage points in profitability to reach close to break even level in the IP. Its return on investment decreased at the same time by 31 percentage points and there was a significant decrease of 69 % in its cashflow. Moreover its capacity utilisation decreased by 5 %, its sales prices decreased by 2 %, employment decreased by 1 %, closing stocks increased by 20 %, its investment decreased by 30 % and its ability to raise capital gradually deteriorated.

(188) Production capacity of the Community industry increased to a certain extent during the period concerned. However, this has to be considered in the context of the total Community production which was hit by the closure of a number of companies having a production capacity of more than 140 000 tonnes. The Community industry increased its capacity by acquiring production assets from the companies subject to these shutdowns.

(189) In the light of the foregoing, it is concluded that the Community industry is in a difficult economic and financial situation and has suffered material injury, within the meaning of Article 3(5) of the basic Regulation.

F. **CAUSATION**

1. INTRODUCTION

(190) In accordance with Articles 3(6) and 3(7) of the basic Regulation, the Commission examined whether the dumped imports originating in Thailand and the PRC have caused injury to the Community industry to a degree that may be considered as material. Known factors other than the dumped imports, which could at the same time have injured the Community industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

2. EFFECT OF THE DUMPED IMPORTS

(191) Between 2001 and the IP, dumped imports originating in the PRC and Thailand increased by 40 % in volume. At the same time the market share of these imports increased from 13,8 % in 2001 to 18,3 % in the IP. The import prices from these countries decreased substantially during the period considered and undercut the Community industry's prices in the IP between 4,1 % to 37,9 %.

(192) This undercutting is resulting, on an average basis, from pricing that does not cover all costs in the commercialization chain.

(193) The substantial increase in volume of the imports at very low and dumped prices and their gain in market share over the period considered coincided with the deterioration of the situation of the Community industry during the same period, in particular in terms profitability, sales prices, closing stocks, investment, capacity utilisation, cash flow, ability to raise capital and return on investment.

(194) It is therefore concluded that the pressure exerted by the imports concerned, played a determining role in the injurious situation of the Community industry.

3. EFFECT OF OTHER FACTORS

3.1. **Performance of other Community producers**

(195) As regards the sales volumes of the other Community producers, they decreased by 7,1 % in terms of volume between 2001 and the IP and decreased by 7,8 % in terms of market share during the same period. No indication was found that the prices of other Community producers were lower than those of the cooperating Community industry, or that their overall situation would be different. Therefore, it is concluded that the products produced and sold by the other Community producers did not contribute to the injury suffered by the Community industry.

3.2. **Imports from other third countries**

(196) According to information derived from Eurostat, the volume of imports originating in other third countries (e.g. Malaysia, Turkey, India and Indonesia) increased by 22 % over the period considered and reached a level of approximately 231 000 tonnes in the IP. This corresponds to a market share of 13,8 %. Over the same period, the prices of these imports decreased by 11 % (from 1,66 EUR/kg in 2001 to 1,48 EUR/kg in the IP). However, it is to be noted that the average price of these imports was above that of the imports originating in the PRC and Thailand during the IP and even slightly higher than that of the Community Industry. It is therefore concluded that imports from other third countries have not materially contributed to the injury suffered by the Community industry.

3.3. **Raw material prices**

(197) It was alleged by some parties that the price of polyethylene has been historically lower in Asia than its price in the EU. However, the evolution of the polyethylene prices reveals that the raw material prices in Asia fluctuated both below and above the corresponding European prices during the period considered. Based on the figures presented by these parties concerning the situation in the PRC, the average price differential in raw materials in the PRC compared to the EU decreased from 20,3 % to 12,3 % between 2001 and 2004 whilst at the same time the average price differential in the final product increased from 0,7 % to 14,8 %. As the development of prices of the raw material should have led to a decrease in the price differential of the final product rather than an increase in this price differential, the investigation showed that there was no logical correlation between the development of the raw material price and the price of the final product exported to the Community. On the contrary, the Community industry was in relatively good shape in 2001 although the price differential was at its highest, and showed an injurious situation in 2004 and the IP when the price differential was much smaller. Therefore, it must be concluded that the differential in the raw material prices cannot be considered to have contributed to the material injury of the Community industry in a significant way.

(198) Some parties further alleged that the injury suffered by the Community industry was not caused by the dumped imports but by the increase in the polyethylene prices during the period considered in the Community. To this end it has to be noted that the polyethylene prices have on an average basis indeed increased during the period considered. However, the Community industry could not increase their respective sales prices accordingly. This inflexibility in prices has been caused by the simultaneous surge of dumped imports originating in the PRC and Thailand, at prices significantly undercutting those of the Community industry and, on an average basis, not even covering the cost of production in the PRC and Thailand. Under these circumstances it has to be concluded that the Community industry has been exposed to heavy price pressure by these dumped imports and consequently has had no possibility to compensate for the increase in the raw material prices by increasing their sales prices respectively.

(199) Finally, it is recalled that in the context of the investigation of a causal link, it has to be examined whether the dumped imports (in terms of prices and volumes) have caused material injury to the Community industry or whether such material injury was due to other factors. In this respect, with regard to prices, Article 3(6) of the basic Regulation refers to a demonstration that the price level of the dumped imports causes injury. It therefore merely refers to a difference between price levels of dumped imports and those of the Community industry. Thus, there is no requirement to analyse the factors affecting the level of the import prices, such as for example the level of labour costs, the level of prices of raw materials or the level of the SG&A costs.

(200) The above is also confirmed by the wording of Article 3(7) of the basic Regulation, which refers to known factors other than dumped imports. Indeed, the list of the other known factors in this Article does not make reference to any factor affecting the price level of the dumped imports. In sum, if the exports are dumped, and even if they benefited from a favourable development in prices of raw materials, it is difficult to see how the favourable development of such input prices could be another factor causing injury.

(201) Thus, the analysis of the factors affecting the level of the prices of the dumped imports, be it differences in prices in raw materials or something else, cannot be conclusive and such analysis would go beyond the requirements of the basic Regulation. Equally on this basis, the arguments concerning the raw material prices are rejected.

4. CONCLUSION ON CAUSATION

(202) The injurious situation of the Community industry coincided with a sharp increase in imports from the PRC and Thailand and a substantial price undercutting by these imports.

(203) As to the imports from other third countries, in view of their lower market share during the IP than that of the imports concerned, and especially in view of the higher average price than that of the imports concerned during the IP and, even more important, higher than that of the Community industry, it is concluded that the effect of these other factors could not have materially contributed to the injury suffered by the Community industry. Furthermore, the effect of the differential in raw material prices in the Community and the countries concerned on the Community industry's negative developments in terms of profitability, performance and decrease in market share was negligible and in fact should have contributed positively to the situation of the Community industry.

(204) No other factors, which could at the same time have injured the Community industry, were raised by interested parties or identified during the course of the investigation.

(205) Given the above analysis which has properly distinguished and separated the effects of all the known factors on the situation of the Community Industry from the injurious effects of the dumped imports, the investigation confirmed that these other factors as such do not reverse the fact that the injury assessed must be attributed to the dumped imports.

(206) It is therefore concluded that the dumped imports originating in the PRC and Thailand have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

G. COMMUNITY INTEREST

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

1. INTERESTS OF THE COMMUNITY INDUSTRY

(208) The imposition of measures is expected to prevent further distortions and restore fair competition on the market. The Community industry is a competitive and viable industry which is evidenced by its situation in 2001 where it was in a relatively good shape despite sharp worldwide competition. Thus, the imposition of measures should allow it to increase market share and its sales prices, and thereby reach reasonable profit levels necessary to improve the industry's financial situation. This will also allow them to continue investments in their production facilities, thus guaranteeing the Community industry's survival.

(209) On the other hand, should anti-dumping measures not be imposed, it is likely that the deterioration of the already poor situation of the Community industry would continue. It would not be able to carry out the necessary investments in order to compete effectively with the dumped imports from the third countries concerned. This will force some companies to cease production and lay off their employees in the near future. The 3 300 direct jobs in the cooperating Community industry would be put at stake. The total Community production of sacks and bags involves approximately 12 000 jobs which are mainly in small and medium sized companies. With the closure of the Community production the Community would become more dependent on suppliers outside the Community.

(210) Accordingly, it is concluded that the imposition of anti-dumping measures would allow the Community industry to recover from the effects of injurious dumping suffered and that it therefore is in the interest of the Community industry.

2. INTEREST OF UNRELATED IMPORTERS/TRADERS AND RETAILERS

(211) The Commission sent questionnaires to four sampled importers/traders representing 9 % of total sales of imports from the countries concerned. However, only two importers/traders, representing 3 % of total imports from the countries concerned, replied to the questionnaire. The cooperating unrelated importers submitted that, were measures imposed, the sales price of the product concerned would rise and that the consumers would have to pay more for the product concerned and that the effect of the duty would thus be transferred to the consumers. Therefore, there would be a limited negative impact on the unrelated importers in this regard.

(212) The product concerned is, to a large extent, distributed by retail businesses. Certain types of the product, such as grocery bags and carrier bags are distributed for free to individual customers in some countries in the Community whereas certain other types, such as freezer bags, nappy bags and bin liners, are sold to the customers. It is to be noted that at present consumers are not charged for single trip carrier bags in certain Member States such as in the United Kingdom.

(213) The investigation showed that the claims concerning the financial impact of an anti-dumping duty on different operators, especially the retail sector, were considerably exaggerated. Some retailers put forward that a duty of 10 % would generate a supplemental cost of EUR 220 million per annum for the retail sector alone. Based on the investigation, as the total customs value of the imports concerned is around EUR 375 million, the maximum effect of an average duty of 10 % would be EUR 38 million on an annual basis across the Community. Moreover, based on the two questionnaire responses received from retailers, the average purchases of the product concerned amounted to less than 0,1 % of the turnover of these retailers. Therefore, the impact of an anti-dumping duty of the above mentioned level would contribute only to a marginal increase in their cost. In addition, some of this supplemental cost would be spread across various levels of the supply chain. The argument of these retailers was therefore rejected.

(214) The same retailers alleged also that there is not only no supply of certain types of the product concerned by the EC industry, but that the EC industry would also not have the capacity to satisfy Community demand as a whole. In this regard it should firstly be noted with regard to the supply of sacks and bags that the imposition of anti-dumping measures would not stop the supply of the product from the countries concerned but would only restore a level playing field in the market. The imports of sacks and bags will continue to satisfy some of the supply in the Community market.

Moreover, the Community industry has existing production capacity to satisfy any increase in demand. In any event, further supply of all types of plastic sacks and bags remains also possible from third countries not subject to measures. These arguments were therefore rejected.

(215) An association representing retailers acquiring funding for charity purposes alleged that any duty would disproportionately harm their fundraising activities as they purchased bags which were distributed to their clients for free. They also said that bags used for collection of recycled items for charity purposes would also be hit should an anti-dumping duty be imposed. In this regard it is to be noted that this type of fundraising, even if for charity purposes, is made on a commercial basis. It is therefore subject to the same risks as any other commercial activity and should be assessed on the same basis. The effect of a duty concerning these retailers would not be significantly different from that of any other retailers. Therefore this argument was rejected.

3. INTEREST OF CONSUMERS

(216) No consumer associations made themselves known within the time-limit set in the notice of initiation.

(217) Some importers argued that the imposition of anti-dumping measures would lead to a rise in the prices charged to the final customer as the level of sales prices would be adjusted in accordance with the duties.

(218) However, as stated above, some retailers distribute parts of the product for free to their clients. Unless these retailers change their well-established policy, the consumers will not feel the effect of the anti-dumping measure imposed in these cases.

(219) An average duty of 10 % would increase the price of each imported bag on an average basis by 0,086 cents and the price of each bag sold in the Community by 0,016 cents (assuming a hypothetical weight of 7g per bag). This increment is negligible even if it would be borne only by consumers. In fact, the effect of the duty borne by the consumers will be even lower as this cost will be spread across various levels of the supply chain.

4. COMPETITION AND TRADE DISTORTING EFFECTS

(220) With respect to the effects of possible measures on competition in the Community, the exporting producers concerned will be able to continue to sell certain plastic bags and sacks, as they have a strong market position. This taken with the large number of producers in the Community and imports from other third countries will ensure that users and retailers will continue to have a wide choice of different suppliers of the like product at reasonable prices.

(221) Thus, there will be an important number of actors in the market, which will be able to satisfy the demand. On the basis of the above, it is therefore concluded that competition will most likely remain strong after the imposition of anti-dumping measures.

5. CONCLUSION ON COMMUNITY INTEREST

(222) The imposition of measures on imports of certain plastic sacks and bags originating in the People's Republic of China and Thailand would clearly be in the interest of the Community industry. It will allow the Community industry to grow and recover from the injury caused by the dumped imports. If, however, measures are not imposed, it is likely that the Community production will continue to decline and more operators will go out of business. Furthermore, the importers and the retailers will not be substantially affected since fairly priced sacks and bags will still be available in the market, including imports from other third countries.

(223) In view of the above, it is concluded that there are no compelling reasons not to impose anti-dumping duties against imports of certain plastic sacks and bags originating in the People's Republic of China and Thailand.

H. **DEFINITIVE MEASURES**

(224) In view of the conclusions reached with regard to dumping, resulting injury and Community interest, and in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping measures should be imposed on imports originating in the People's Republic of China and Thailand in order to prevent further injury being caused to the Community industry by the dumped imports.

(225) The measures should be imposed at a level sufficient to eliminate the injury caused by these imports without exceeding the dumping margin found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs of production and to obtain an overall profit before tax that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on the sales of the like product in the Community. The pre-tax profit margin used for this calculation was 6 % of turnover of the sales of the like product representing a healthy profit level attributable to the industry under normal conditions of competition, which was attained by the industry before the surge of the dumped imports.

(226) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates are thus exclusively applicable to imports of products originating in the countries concerned and produced by the companies and thus by the specific legal entities mentioned.

(227) As to one Chinese exporting producer denied MET and IT, this company should not receive an individual anti-dumping duty rate, despite having been calculated a dumping margin, as explained in recital 131. Imports of products produced by this company, a cooperating exporting producer, should therefore be subject to the average duty rate determined for cooperating exporters not selected to be part of the samples, as described in recital 228.

(228) The duty rates for cooperating exporters not selected to be part of the samples are, for each country, the weighted average of the dumping margins found for the sampled companies, as per recital 54. Imported products produced by any other company not specifically mentioned with its name and address in the operative part or in the annexes of this Regulation, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(229) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic sales and export sales associated with e.g. that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duties. Pursuant to Article 11(4) of the basic Regulation, a new exporter review to determine individual dumping margins could not be initiated in this proceeding, as sampling was applied to the exporting producers of the PRC, Malaysia and Thailand. However, in order to ensure equal treatment between any new exporting producer and the cooperating companies not included in the samples, it is considered that a provision should be made to impose the duty applicable to the latter companies to any new exporting producers which can demonstrate that they would be entitled to a review pursuant to Article 11(4) of the basic Regulation.

(230) Any claim requesting the addition of a new exporting producer in the PRC or Thailand to the lists set out in Annexes I or II of the Regulation should be addressed to the Commission forthwith with all relevant information, in particular the evidence that the company concerned fulfils the three criteria set out in Article 2 of the Regulation. If appropriate, the Regulation will accordingly be amended by updating the lists of companies in Annexes I or II benefiting from the average duty of the sample.

(231) In view of the findings above, the anti-dumping duty rates should be as follows:

Country	Exporting producer	Dumping margin	Injury margin	AD duty rate
The PRC	Cedo (Shanghai) Ltd and Cedo (Shanghai) Household Wrappings Co. Ltd, Shanghai	7,4 %	39,0 %	7,4 %
	Jinguan (Longhai) Plastics Packing Co., Ltd, Longhai	5,1 %	74,6 %	5,1 %
	Sunway Kordis Shanghai and Shanghai Sunway Polysell, Shanghai	4,8 %	37,4 %	4,8 %
	Suzhou Guoxin Group Co., Ltd, Suzhou Guoxin Group Taicang Yihe Import & Export Co., Ltd, Taicang Dongyuan Plastic Co., Ltd and Suzhou Guoxin Group Taicang Giant Packaging Co., Ltd, Taicang	7,8 %	61,3 %	7,8 %
	Wuxi Jiayihe Packaging Co., Ltd and Wuxi Bestpac Packaging Co., Ltd, Wuxi	12,8 %	57,8 %	12,8 %
	Zhong Shan Qi Yu Plastic Products Co Ltd., Zhongshan	5,7 %	34,3 %	5,7 %
	Huizhou Jun Yang Plastics Co, Huizhou	4,8 %	30,8 %	4,8 %
	Cooperating exporting producers not in the sample	8,4 %	49,3 %	8,4 %
	All other companies	28,8 %	34,3 %	28,8 %
Thailand	King Pac Industrial Co Ltd, Chonburi and Dpac Industrial Co., Ltd, Bangkok	14,3 %	37,4 %	14,3 %
	Multibax Public Co., Ltd, Chonburi	5,1 %	10,6 %	5,1 %
	Naraipak Co., Ltd and Narai Packaging (Thailand) Ltd, Bangkok	10,4 %	29,7 %	10,4 %
	Sahachit Watana Plastic Industry Co., Ltd, Bangkok	6,8 %	23,9 %	6,8 %
	Thai Plastic Bags Industries Co., Ltd, Nakhonpathom	5,8 %	53,5 %	5,8 %
	Cooperating exporting producers not in the sample	7,9 %	27,6 %	7,9 %
	All other companies	14,3 %	37,4 %	14,3 %

HAS ADOPTED THIS REGULATION:

Article 1

1. Definitive anti-dumping duties are hereby imposed on imports of plastic sacks and bags, containing at least 20 % by weight of polyethylene and of a thickness not exceeding 100 micrometers; originating in the People's Republic of China and Thailand; and falling within CN codes ex 3923 21 00, ex 3923 29 10 and ex 3923 29 90 (TARIC codes 3923 21 00 20, 3923 29 10 20 and 3923 29 90 20).

2. The rate of the definitive duty applicable to the net, free-at-Community-frontier price, before duty, for products manufactured by the companies listed below shall be as follows:

Country	Company	AD duty rate (%)	TARIC Additional code
The People's Republic of China	Cedo (Shanghai) Ltd and Cedo (Shanghai) Household Wrappings Co. Ltd, Shanghai	7,4	A757
	Jinguan (Longhai) Plastics Packing Co., Ltd, Longhai	5,1	A758
	Sunway Kordis (Shanghai) Ltd and Shanghai Sunway Polysell Ltd, Shanghai	4,8	A760
	Suzhou Guoxin Group Co., Ltd, Suzhou Guoxin Group Taicang Yihe Import & Export Co., Ltd, Taicang Dongyuan Plastic Co., Ltd and Suzhou Guoxin Group Taicang Giant Packaging Co., Ltd, Taicang	7,8	A761
	Wuxi Jiayihe Packaging Co., Ltd and Wuxi Bestpac Packaging Co., Ltd, Wuxi	12,8	A763
	Zhong Shan Qi Yu Plastic Products Co Ltd, Zhongshan	5,7	A764
	Huizhou Jun Yang Plastics Co,. Ltd, Huizhou	4,8	A765
	Companies listed in Annex I	8,4	A766
	All other companies	28,8	A999
Thailand	King Pac Industrial Co., Ltd, Chonburi and Dpac Industrial Co., Ltd, Bangkok	14,3	A767
	Multibax Public Co., Ltd, Chonburi	5,1	A768
	Naraipak Co Ltd and Narai Packaging (Thailand) Ltd, Bangkok	10,4	A769
	Sahachit Watana Plastic Industry Co., Ltd, Bangkok	6,8	A770
	Thai Plastic Bags Industries Co., Ltd, Nakonpathom	5,8	A771
	Companies listed in Annex II	7,9	A772
	All other companies	14,3	A999

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

Article 2

Where any new exporting producer in the PRC or Thailand provides sufficient evidence to the Commission that

— it did not export to the Community the products described in Article 1(1) during the investigation period (1 April 2004 to 31 March 2005),

— it is not related to any of the exporters or producers in the PRC or Thailand which are subject to the anti-dumping measures imposed by this Regulation, and

— 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,

then the Council, acting by simple majority on a proposal submitted by the Commission after consulting the Advisory Committee, may amend Article 1(3) by adding that new exporting producer to the lists in Annexes I or II.

Article 3

The proceeding concerning imports of certain plastic sacks and bags originating in Malaysia is hereby terminated.

Article 4

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, 25 September 2006.

For the Council
The President
M. PEKKARINEN

ANNEX I

CHINESE COOPERATING EXPORTING PRODUCERS NOT SAMPLED

TARIC Additional Code A766

BEIJING LIANBIN PLASTIC & PRINTING CO LTD	Beijing
CHANGLE BEIHAI PLASTIC PRODUCTS CO., LTD.	Zhuliu
CHANGLE UNITE PLASTIC PRODUCTS CO., LTD.	Changle
CHANGLE HUALONG PLASTIC PRODUCTS CO LTD	Changle
CHANGLE SANDELI PLASTIC PRODUCTS CO LTD	Changle
CHANGLE SHENGDA RUBBER PRODUCTS CO., LTD.	Changle
CHANGZHOU HUAGUANG PLASTIC PRODUCTS CO., LTD.	Wujin
CHEONG FAT PLASTIC BAGS (CHINA) PRINTING FACTORY	Shenzhen
CHUN HING PLASTIC PACKAGING MANUFACTORY LTD	Hong Kong
CHUN YIP (SHENZHEN) PLASTICS LIMITED	Shenzhen
CROWN POLYETHYLENE PRODUCTS (INT'L) LTD.	Hong Kong
DALIAN JINSHIDA PACKING PRODUCTS CO., LTD	Dalian
DONG GUAN HARBONA PLASTIC & METALS FACTORY CO., LTD.	Dongguan
DONGGUAN CHERRY PLASTIC INDUSTRIAL, LTD	Dongguan
DONGGUAN FIRSTWAY PLASTIC PRODUCTS CO., LTD	Dongguan
DONGGUAN MARUMAN PLASTIC PACKAGING COMPANY LIMITED	Dongguan
DONGGUAN NAN SING PLASTICS LIMITED	Dongguan
DONGGUAN NOZAWA PLASTIC PRODUCTS CO. LTD	Dongguan
DONGGUAN RUI LONG PLASTICS FACTORY	Dongguan
FOSHAN SHUNDE KANGFU PLASTIC PRODUCTS CO., LTD.	Shunde
FU YUEN ENTERPRISES CO.	Hong Kong
GOLD MINE PLASTIC INDUSTRIAL LIMITED	Jiangmen
GOOD-IN HOLDINGS LTD.	Hong Kong
HANG LUNG PLASTIC FACTORY (SHENZHEN) LTD	Shenzhen
JIANGMEN CITY XIN HUI HENGLONG PLASTIC LTD.	Jiangmen
JIANGMEN TOPTYPE PLASTIC PRODUCTS CO., LTD.	Jiangmen
JIANGMEN XINHUI FENGZE PLASTIC COMPANY LTD.	Jiangmen
JIANGYIN BRAND POLYTHENE PACKAGING CO., LTD.	Jiangyin
JINAN BAIHE PLASTIC PRODUCTS COMPANY LIMITED	Jinan
JINAN CHANGWEI PLASTIC PRODUCTS CO., LTD.	Jinan
JINAN CHENGLIN PLASTIC PRODUCTS COMPANY LTD.	Jinan
JINAN MINFENG PLASTIC CO., LTD.	Jinan
JINYANG PACKING PRODUCTS (WEIFANG) CO. LTD	Qingzhou
JUXIAN HUACHANG PLASTIC CO., LTD	Liuguanzhuang

JUXIAN HUAYANG PLASTIC PRODUCTS CO., LTD	Liuguanzhuang
KIN WAI POLY BAG PRINTING LTD.	Hong Kong
LAIZHOU JINYUAN PLASTICS INDUSTRY & TRADE CO., LTD.	Laizhou
LAIZHOU YUANXINYIE PLASTIC MACHINERY CO., LTD.	Laizhou
LICK SAN PLASTIC BAGS (SHENZHEN) CO., LTD.	Shenzhen
LINQU SHUNXING PLASTIC PRODUCTS CO. LTD	Linqu
LONGKOU CITY LONGDAN PLASTIC CORPORATION LTD.	Longkou
NEW CARING PLASTIC MANUFACTORY LTD.	Jiangmen
NEW WAY POLYPAK DONGYING CO., LTD.	Dongying
NINGBO HUASEN PLASTHETICS CO., LTD.	Ningbo
NINGBO MARUMAN PACKAGING PRODUCT CO. LTD.	Ningbo
POLY POLYETHYLENE BAGS AND PRINTING CO.	Hong Kong
QINGDAO NEW LEFU PACKAGING CO., LTD.	Qingdao
RALLY PLASTICS CO., LTD. ZHONGSHAN	Zhongshan
RIZHAO XINAO PLASTIC PRODUCTS CO., LTD	Liuguanzhuang
DONGGUAN SEA LAKE PLASTIC PRODUCTS MANUFACTURING CO., LTD.	Dongguan
SHANGHAI HANHUA PLASTIC PACKAGE PRODUCT CO., LTD.	Shanghai
SHANGHAI HUAYUE PACKAGING PRODUCTS CO., LTD.	Shanghai
SHANGHAI LIQIANG PLASTICS INDUSTRY CO., LTD.	Zhangyan
SHANGHAI MINGYE PLASTICS GOODS COMPANY LIMITED	Shanghai
SHANGHAI QUTIAN TECHNOLOGY INDUSTRY DEVELOPMENT CO. LTD.	Shanghai
SHANTOU ULTRA DRAGON PLASTICS LTD.	Shantou
SHAOXING YUCI PLASTICS AND BAKELITE PRODUCTS CO., LTD.	Shangyu
SHENG YOUNG INDUSTRIAL (ZHONGSHAN) CO., LTD.	Zhongshan
SUPREME DEVELOPMENT COMPANY LIMITED	Hong Kong
TAISHING PLASTIC PRODUCTS CO., LTD. ZHONGSHAN	Zhongshan
TIANJIN MINGZE PLASTIC PACKAGING CO., LTD.	Tianjin
UNIVERSAL PLASTIC & METAL MANUFACTURING LIMITED	Hong Kong
WAI YUEN INDUSTRIAL AND DEVELOPMENT LTD	Hong Kong
WEIFANG DESHUN PLASTIC PRODUCTS CO., LTD.	Changle
WEIFANG HENGSHENG RUBBER PRODUCTS CO., LTD.	Changle
WEIFANG HONGYUAN PLASTIC PRODUCTS CO., LTD.	Changle
WEIFANG HUASHENG PLASTIC PRODUCTS CO., LTD.	Changle
WEIFANG KANGLE PLASTICS CO., LTD.	Changle
WEIFANG LIFA PLASTIC PACKING CO., LTD.	Weifang
WEIFANG XINLI PLASTIC PRODUCTS CO., LTD.	Weifang
WEIFANG YUANHUA PLASTIC PRODUCTS CO., LTD.	Weifang
WEIFANG YUJIE PLASTICS PRODUCTS CO., LTD.	Weifang

WEIHAI WEIQUAN PLASTIC AND RUBBER PRODUCTS CO. LTD.	Weihai
WINNER BAGS PRODUCT COMPANY (SHENZHEN) LIMITED	Shenzhen
WUI HING PLASTIC BAGS PRINTING (SHENZHEN) COMPANY LIMITED	Shenzhen
XIAMEN EGRET PLASTICS CO., LTD.	Gaoqi
XIAMEN RICHIN PLASTIC CO., LTD	Xiamen
XIAMEN UNITED OVERSEA ENTERPRISES LTD.	Xiamen
XIAMEN XINGXIA POLYMERS CO., LTD	Xiamen
XIAMEN XINYATAI PLASTIC INDUSTRY CO. LTD.	Xiamen
XINHUI ALIDA POLYTHENE LIMITED	Xinhui
XINTAI CHUNHUI MODIFIED PLASTIC CO., LTD	Xintai
YANTAI BAGMART PACKAGING CO., LTD.	Yantai
YANTAI LONGQUAN PACKAGING MATERIAL CO. LTD.	Yantai
YAU BONG POLYBAGS PRINTING CO., LTD.	Hong Kong
YINKOU FUCHANG PLASTIC PRODUCTS. CO., LTD.	Yingkou
YONGCHANG (CHANGLE) PLASTIC INDUSTRIES CO., LTD.	Weifang
ZHANGJIAGANG YUANHEYI PAPER & PLASTIC COLOR PRINTING & PACKING CO., LTD	Zhangjiagang
ZHONGSHAN DONGFENG HUNG WAI PLASTIC BAG MFY	Zhongshan
ZHONGSHAN HUANGPU TOWN LIHENG METAL & PLASTIC FACTORY	Zhongshan
ZHUHAI CHINTEC PACKING TECHNOLOGY ENTERPRISE CO. LTD	Zhuhai
ZIBO WEIJIA PLASTIC PRODUCTS CO., LTD.	Zibo

ANNEX II

THAI COOPERATING EXPORTING PRODUCERS NOT SAMPLED

TARIC Additional Code A772

APPLE FILM CO., LTD	Samutprakarn Province
C P PACKAGING INDUSTRY CO., LTD.	Bangkok
K. INTERNATIONAL PACKAGING CO., LTD.	Samutsakorn
POLY WORLD CO., LTD.	Bangkok
SIAM FLEXIBLE INDUSTRIES CO., LTD	Samutsakorn
THAI GRIPTECH CO. LTD. et SUPER GRIP CO., LTD.	Bangkok
THANTAWAN INDUSTRY PUBLIC COMPANY LIMITED	Nakornphathom
UNITY THAI PRODUCTS CO., LTD. et UNITY THAI PRODUCTS (1999) CO., LTD.	Bangkok
UNIVERSAL POLYBAG COMPANY LTD.	Chonburi
ZIPLAS INTERNATIONAL CO LTD	Bangkok

COMMISSION REGULATION (EC) No 1426/2006

of 28 September 2006

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 29 September 2006.

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

Done at Brussels, 28 September 2006.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

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

ANNEX

to Commission Regulation of 28 September 2006 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	052	60,4
	096	42,0
	999	51,2
0707 00 05	052	98,8
	999	98,8
0709 90 70	052	85,9
	999	85,9
0805 50 10	052	71,7
	388	64,2
	524	55,2
	528	55,6
	999	61,7
0806 10 10	052	88,6
	400	152,5
	624	139,2
	999	126,8
0808 10 80	388	89,5
	400	91,6
	508	72,4
	512	82,2
	528	74,1
	720	72,4
	800	140,5
	804	95,4
	999	89,8
0808 20 50	052	114,9
	388	90,6
	720	74,4
	999	93,3
0809 30 10, 0809 30 90	052	104,2
	999	104,2
0809 40 05	052	111,4
	066	68,2
	624	114,9
	999	98,2

(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 1427/2006

of 28 September 2006

fixing the export refunds on white and raw sugar exported without further processing

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the market in the sugar sector [1], and in particular the second subparagraph of Article 33(2) thereof,

Whereas:

(1) Article 32 of Regulation (EC) No 318/2006 provides that the difference between prices on the world market for the products listed in Article 1(1)(b) of that Regulation and prices for those products on the Community market may be covered by an export refund.

(2) Given the present situation on the sugar market, export refunds should therefore be fixed in accordance with the rules and certain criteria provided for in Articles 32 and 33 of Regulation (EC) No 318/2006.

(3) The first subparagraph of Article 33(2) of Regulation (EC) No 318/2006 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund according to destination.

(4) Refunds should be granted only on products that are allowed to move freely in the Community and that comply with the requirements of Regulation (EC) No 318/2006.

(5) The negotiations within the framework of the Europe Agreements between the European Community and Romania and Bulgaria aim in particular to liberalise trade in products covered by the common organisation of the market concerned. For those two countries export refunds should therefore be abolished.

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

HAS ADOPTED THIS REGULATION:

Article 1

Export refunds as provided for in Article 32 of Regulation (EC) No 318/2006 shall be granted on the products and for the amounts set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 29 September 2006.

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

Done at Brussels, 28 September 2006.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

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

ANNEX

Export refunds on white and raw sugar exported without further processing applicable from 29 September 2006 [a]

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	28,04 [1]
1701 11 90 9910	S00	EUR/100 kg	28,04 [1]
1701 12 90 9100	S00	EUR/100 kg	28,04 [1]
1701 12 90 9910	S00	EUR/100 kg	28,04 [1]
1701 91 00 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,3048
1701 99 10 9100	S00	EUR/100 kg	30,48
1701 99 10 9910	S00	EUR/100 kg	30,48
1701 99 10 9950	S00	EUR/100 kg	30,48
1701 99 90 9100	S00	EUR/1 % sucrose × 100 kg of net product	0,3048

NB: The destinations are defined as follows:

S00: all destinations except Albania, Croatia, Bosnia and Herzegovina, Bulgaria, Romania, Serbia, Montenegro, Kosovo, the former Yugoslav Republic of Macedonia.

[a] The amounts set out in this Annex are not applicable with effect from 1 February 2005 pursuant to Council Decision 2005/45/EC of 22 December 2004 concerning the conclusion and application of the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products (OJ L 23, 26.1.2005, p. 17).

[1] This amount is applicable to raw sugar with a yield of 92 %. Where the yield for exported raw sugar differs from 92 % the refund amount applicable shall be multiplied, for each exporting operation concerned, by a conversion factor obtained by dividing by 92 the yield of the raw sugar exported, calculated in accordance with paragraph 3 of Point III of the Annex I of Regulation (EC) No 318/2006.

COMMISSION REGULATION (EC) No 1428/2006

of 28 September 2006

fixing the export refunds on syrups and certain other sugar products exported without further processing

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the market in the sugar sector [1], and in particular the second subparagraph of Article 33(2) thereof,

Whereas:

(1) Article 32 of Regulation (EC) No 318/2006 provides that the difference between prices on the world market for the products listed in Article 1(1)(c), (d) and (g) of that Regulation and prices for those products on the Community market may be covered by an export refund.

(2) Given the present situation on the sugar market, export refunds should therefore be fixed in accordance with the rules and certain criteria provided for in Articles 32 and 33 of Regulation (EC) No 318/2006.

(3) The first subparagraph of Article 33(2) of Regulation (EC) No 318/2006 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund according to destination.

(4) Refunds should be granted only on products that are allowed to move freely in the Community and that comply with the requirements of Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector [2].

(5) The negotiations within the framework of the Europe Agreements between the European Community and Romania and Bulgaria aim in particular to liberalise trade in products covered by the common organisation of the market concerned. For those two countries export refunds should therefore be abolished.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Export refunds as provided for in Article 32 of Regulation (EC) No 318/2006 shall be granted on the products and for the amounts set out in the Annex to this Regulation subject to the conditions provided for in paragraph 2 of this Article.

2. To be eligible for a refund under paragraph 1 products must meet the relevant requirements laid down in Articles 3 and 4 of Regulation (EC) No 951/2006.

Article 2

This Regulation shall enter into force on 29 September 2006.

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

Done at Brussels, 28 September 2006.

For the Commission
Jean-Luc DEMARTY
Director-General for Agriculture and Rural Development

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

[2] OJ L 178, 1.7.2006, p. 24.

ANNEX

Export refunds on syrups and certain other sugar products exported without further processing applicable from 29 September 2006 [a]

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	S00	EUR/100 kg dry matter	30,48
1702 60 10 9000	S00	EUR/100 kg dry matter	30,48
1702 60 95 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,3048
1702 90 30 9000	S00	EUR/100 kg dry matter	30,48
1702 90 60 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,3048
1702 90 71 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,3048
1702 90 99 9900	S00	EUR/1 % sucrose × 100 kg of net product	0,3048 [1]
2106 90 30 9000	S00	EUR/100 kg dry matter	30,48
2106 90 59 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,3048

NB: The destinations are defined as follows:
S00: all destinations except Albania, Croatia, Bosnia and Herzegovina, Bulgaria, Romania, Serbia, Montenegro, Kosovo and the former Yugoslav Republic of Macedonia.

[a] The amounts set out in this Annex are not applicable with effect from 1 February 2005 pursuant to Council Decision 2005/45/EC of 22 December 2004 concerning the conclusion and application of the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products (OJ L 23, 26.1.2005, p. 17).

[1] The basic amount is not applicable to the product defined under point 2 of the Annex to Commission Regulation (EEC) No 3513/92 (OJ L 355, 5.12.1992, p. 12).

COMMISSION REGULATION (EC) No 1429/2006

of 28 September 2006

fixing the maximum export refund for white sugar in the framework of the standing invitation to tender provided for in Regulation (EC) No 958/2006

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector [1], and in particular the second subparagraph and point (b) of the third subparagraph of Article 33(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 958/2006 of 28 June 2006 on a standing invitation to tender to determine refunds on exports of white sugar for the 2006/2007 marketing year [2] requires the issuing of partial invitations to tender.

(2) Pursuant to Article 8(1) of Regulation (EC) No 958/2006 and following an examination of the tenders submitted in response to the partial invitation to tender ending on 28 September 2006, it is appropriate to fix a maximum export refund for that partial invitation to tender.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the partial invitation to tender ending on 28 September 2006, the maximum export refund for the product referred to in Article 1(1) of Regulation (EC) No 958/2006 shall be 35,481 EUR/100 kg.

Article 2

This Regulation shall enter into force on 29 September 2006.

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

Done at Brussels, 28 September 2006.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

[1] OJ L 58, 28.2.2006, p. 1.
[2] OJ L 175, 29.6.2006, p. 49.

COMMISSION REGULATION (EC) No 1430/2006

of 28 September 2006

fixing the maximum export refund for butter in the framework of the standing invitation to tender provided for in Regulation (EC) No 581/2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], and in particular the third subparagraph of Article 31(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 581/2004 of 26 March 2004 opening a standing invitation to tender for export refunds concerning certain types of butter [2] provides for a permanent tender.

(2) Pursuant to Article 5 of Commission Regulation (EC) No 580/2004 of 26 March 2004 establishing a tender procedure concerning export refunds for certain milk products [3] and following an examination of the tenders submitted in response to the invitation to tender, it is appropriate to fix a maximum export refund for the tendering period ending on 26 September 2006.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the permanent tender opened by Regulation (EC) No 581/2004, for the tendering period ending on 26 September 2006, the maximum amount of refund for the products referred to in Article 1(1) of that Regulation shall be as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 29 September 2006.

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

Done at Brussels, 28 September 2006.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

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

[2] OJ L 90, 27.3.2004, p. 64. Regulation as last amended by Regulation (EC) No 409/2006 (OJ L 71, 10.3.2006, p. 5).

[3] OJ L 90, 27.3.2004, p. 58. Regulation as amended by Regulation (EC) No 1814/2005 (OJ L 292, 8.11.2005, p. 3).

ANNEX

(EUR/100 kg)

Product	Export refund Code	Maximum amount of export refund for export to the destinations referred to in the second subparagraph of Article 1(1) of Regulation (EC) No 581/2004
Butter	ex 0405 10 19 9500	101,00
Butter	ex 0405 10 19 9700	108,00
Butteroil	ex 0405 90 10 9000	130,00

COMMISSION REGULATION (EC) No 1431/2006

of 28 September 2006

fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 15 May 1999 on the common organisation of the market in milk and milk products [1], and in particular Article 31(3) thereof,

Whereas:

(1) Article 31(1) of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1(a), (b), (c), (d), (e), and (g) of that Regulation and prices within the Community may be covered by an export refund.

(2) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds [2], specifies the products for which a rate of refund is to be fixed, to be applied where these products are exported in the form of goods listed in Annex II to Regulation (EC) No 1255/1999.

(3) In accordance with the first paragraph of Article 14 of Regulation (EC) No 1043/2005, the rate of the refund per 100 kilograms for each of the basic products in question is to be fixed each month.

(4) However, in the case of certain milk products exported in the form of goods not covered by Annex I to the Treaty, there is a danger that, if high refund rates are fixed in advance, the commitments entered into in relation to those refunds may be jeopardised. In order to avert that danger, it is therefore necessary to take appropriate precautionary measures, but without precluding the conclusion of long-term contracts. The fixing of specific refund rates for the advance fixing of refunds in respect of those products should enable those two objectives to be met.

(5) Article 15(2) of Regulation (EC) No 1043/2005 provides that, when the rate of the refund is being fixed, account is to be taken, where appropriate, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organisation of the market in the product in question to the basic products listed in Annex I to Regulation (EC) No 1043/2005 or to assimilated products.

(6) Article 12(1) of Regulation (EC) No 1255/1999 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions.

(7) Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/1999 as regards measures for the disposal of cream, butter and concentrated butter [3], lays down that butter and cream at reduced prices should be made available to industries which manufacture certain goods.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Article 1 of Regulation (EC) No 1255/1999, and exported in the form of goods listed in Annex II to Regulation (EC) No 1255/1999, shall be fixed as set out in the Annex to this Regulation.

[1] OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

[2] OJ L 172, 5.7.2005, p. 24.

[3] OJ L 308, 25.11.2005, p. 1. Regulation amended by Regulation (EC) No 2107/2005 (OJ L 337, 22.12.2005, p. 20).

Article 2

This Regulation shall enter into force on 29 September 2006.

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

Done at Brussels, 28 September 2006.

For the Commission
Günter VERHEUGEN
Vice-President

ANNEX

Rates of the refunds applicable from 29 September 2006 to certain milk products exported in the form of goods not covered by Annex I to the Treaty [1]

(EUR/100 kg)

CN code	Description	Rate of refund	
		In case of advance fixing of refunds	Other
ex 0402 10 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2):		
	(a) on exportation of goods of CN code 3501	—	—
	(b) on exportation of other goods	0,00	0,00
ex 0402 21 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3):		
	(a) where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EC) No 1898/2005 are exported	24,10	24,10
	(b) on exportation of other goods	54,00	54,00
ex 0405 10	Butter, with a fat content by weight of 82 % (PG 6):		
	(a) where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EC) No 1898/2005 are exported	76,00	76,00
	(b) on exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	106,75	106,75
	(c) on exportation of other goods	99,50	99,50

[1] The rates set out in this Annex are not applicable to exports to Bulgaria, with effect from 1 October 2004, to Romania with effect from 1 December 2005, and to the goods listed in Tables I and II to Protocol No 2 the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation or to the Principality of Liechtenstein with effect from 1 February 2005.

COMMISSION REGULATION (EC) No 1432/2006

of 28 September 2006

fixing the rates of the refunds applicable to certain cereal and rice products exported in the form of goods not covered by Annex I to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice [2], and in particular Article 14(3) thereof,

Whereas:

(1) Article 13(1) of Regulation (EC) No 1784/2003 and Article 14(1) of Regulation (EC) No 1785/2003 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund.

(2) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds [3], specifies the products for which a rate of refund is to be fixed, to be applied where these products are exported in the form of goods listed in Annex III to Regulation (EC) No 1784/2003 or in Annex IV to Regulation (EC) No 1785/2003 as appropriate.

(3) In accordance with the first paragraph of Article 14 of Regulation (EC) No 1043/2005, the rate of the refund per 100 kilograms for each of the basic products in question is to be fixed each month.

(4) The commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex I to the Treaty may be jeopardised by the fixing in advance of high refund rates. It is therefore necessary to take precautionary measures in such situations without, however, preventing the conclusion of long-term contracts. The fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met.

(5) Taking into account the settlement between the European Community and the United States of America on Community exports of pasta products to the United States, approved by Council Decision 87/482/EEC [4], it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination.

(6) Pursuant to Article 15(2) and (3) of Regulation (EC) No 1043/2005, a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Commission Regulation (EEC) No 1722/93 [5], for the basic product in question, used during the assumed period of manufacture of the goods.

(7) Spirituous beverages are considered less sensitive to the price of the cereals used in their manufacture. However, Protocol 19 of the Act of Accession of the United Kingdom, Ireland and Denmark provides that the necessary measures must be decided to facilitate the use of Community cereals in the manufacture of spirituous beverages obtained from cereals. Accordingly, it is necessary to adapt the refund rate applying to cereals exported in the form of spirituous beverages.

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

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Article 1 of Regulation (EC) No 1784/2003 or in Article 1 of Regulation (EC) No 1785/2003, and exported in the form of goods listed in Annex III to Regulation (EC) No 1784/2003 or in Annex IV to Regulation (EC) No 1785/2003 respectively, shall be fixed as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 29 September 2006.

[1] OJ L 270, 21.10.2003, p. 78.
[2] OJ L 270, 21.10.2003, p. 96.
[3] OJ L 172, 5.7.2005, p. 24.
[4] OJ L 275, 29.9.1987, p. 36.
[5] OJ L 159, 1.7.1993, p. 112. Regulation as last amended by Regulation (EC) No 1584/2004 (OJ L 280, 31.8.2004, p. 11).

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

Done at Brussels, 28 September 2006.

For the Commission
Günter VERHEUGEN
Vice-President

ANNEX

Rates of the refunds applicable from 29 September 2006 to certain cereals and rice products exported in the form of goods not covered by Annex I to the Treaty (*)

(EUR/100 kg)

CN code	Description of products (1)	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
1001 10 00	Durum wheat:		
	– on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	—	—
	– in other cases	—	—
1001 90 99	Common wheat and meslin:		
	– on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	—	—
	– in other cases:		
	– – where Article 15(3) of Regulation (EC) No 1043/2005 applies (2)	—	—
	– – where goods falling within subheading 2208 (3) are exported	—	—
	– – in other cases	—	—
1002 00 00	Rye	—	—
1003 00 90	Barley		
	– where goods falling within subheading 2208 (3) are exported	—	—
	– in other cases	—	—
1004 00 00	Oats	—	—
1005 90 00	Maize (corn) used in the form of:		
	– starch:		
	– – where Article 15(3) of Regulation (EC) No 1043/2005 applies (2)	2,438	2,438
	– – where goods falling within subheading 2208 (3) are exported	0,191	0,191
	– – in other cases	2,691	2,691
	– glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 (4):		
	– – where Article 15(3) of Regulation (EC) No 1043/2005 applies (2)	1,765	1,765
	– – where goods falling within subheading 2208 (3) are exported	0,143	0,143
	– – in other cases	2,018	2,018
	– where goods falling within subheading 2208 (3) are exported	0,191	0,191
	– other (including unprocessed)	2,691	2,691
	Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize:		
	– where Article 15(3) of Regulation (EC) No 1043/2005 applies (2)	2,453	2,453
	– where goods falling within subheading 2208 (3) are exported	0,191	0,191
	– in other cases	2,691	2,691

(*) The rates set out in this Annex are not applicable to exports to Bulgaria with effect from 1 October 2004, to Romania with effect from 1 December 2005, and to the goods listed in Tables I and II to Protocol No 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation or to the Principality of Liechtenstein with effect from 1 February 2005.

(EUR/100 kg)

CN code	Description of products (1)	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
ex 1006 30	Wholly milled rice:		
	– round grain	—	—
	– medium grain	—	—
	– long grain	—	—
1006 40 00	Broken rice	—	—
1007 00 90	Grain sorghum, other than hybrid for sowing	—	—

(1) As far as agricultural products obtained from the processing of a basic product or/and assimilated products are concerned, the coefficients set out in Annex V to Commission Regulation (EC) No 1043/2005 is applicable.
(2) The goods concerned fall under CN code 3505 10 50.
(3) Goods listed in Annex III to Regulation (EC) No 1784/2003 or referred to in Article 2 of Regulation (EEC) No 2825/93 (OJ L 258, 16.10.1993, p. 6).
(4) For syrups of CN codes NC 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund relates only to the glucose syrup.

COMMISSION REGULATION (EC) No 1433/2006

of 28 September 2006

fixing the rates of refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the market in the sugar sector [1], and in particular Article 33(2)(a) and (4) thereof,

Whereas:

(1) Article 32(1) and (2) of Regulation (EC) No 318/2006 provides that the differences between the prices in international trade for the products listed in Article 1(1)(b), (c), (d) and (g) of that Regulation and prices within the Community may be covered by an export refund where these products are exported in the form of goods listed in Annex VII to that Regulation.

(2) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds, and the criteria for fixing the amount of such refunds [2], specifies the products for which a rate of refund is to be fixed, to be applied where these products are exported in the form of goods listed in Annex VII to Regulation (EC) No 318/2006.

(3) In accordance with the first paragraph of Article 14 of Regulation (EC) No 1043/2005, the rate of the refund per 100 kilograms for each of the basic products in question is to be fixed each month.

(4) Article 32(4) of Regulation (EC) No 318/2006 lays down that the export refund for a product contained in goods may not exceed the refund applicable to that product when exported without further processing.

(5) The refunds fixed under this Regulation may be fixed in advance as the market situation over the next few months cannot be established at the moment.

(6) The commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex I to the Treaty may be jeopardised by the fixing in advance of high refund rates. It is therefore necessary to take precautionary measures in such situations without, however, preventing the conclusion of long-term contracts. The fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met.

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

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Article 1(1) and in point (1) of Article 2 of Regulation (EC) No 318/2006, and exported in the form of goods listed in Annex VII to Regulation (EC) No 318/2006, shall be fixed as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 29 September 2006.

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

Done at Brussels, 28 September 2006.

For the Commission
Günter VERHEUGEN
Vice-President

[1] OJ L 58, 28.2.2006, p. 1.
[2] OJ L 172, 5.7.2005, p. 24. Regulation as last amended by Regulation (EC) No 544/2006 (OJ L 94, 1.4.2006, p. 24).

ANNEX

Rates of refunds applicable from 29 September 2006 to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty [1]

CN code	Description	Rate of refund in EUR/100 kg	
		In case of advance fixing of refunds	Other
1701 99 10	White sugar	30,48	30,48

[1] The rates set out in this Annex are not applicable to exports to Bulgaria, with effect from 1 October 2004, to Romania with effect from 1 December 2005, and to the goods listed in Tables I and II to Protocol No 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation or to the Principality of Liechtenstein with effect from 1 February 2005.

COMMISSION REGULATION (EC) No 1434/2006

of 28 September 2006

fixing the export refunds on products processed from cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ([1]), and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice ([2]), and in particular Article 14(3) thereof,

Whereas:

(1) Article 13 of Regulation (EC) No 1784/2003 and Article 14 of Regulation (EC) No 1785/2003 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund.

(2) Article 14 of Regulation (EC) No 1785/2003 provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other. The same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market.

(3) Article 4 of Commission Regulation (EC) No 1518/95 ([3]) on the import and export system for products processed from cereals and from rice defines the specific criteria to be taken into account when the refund on these products is being calculated.

(4) The refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tegument, protein, fat and starch content of the individual product concerned, this content being a particularly good indicator of the quantity of basic product actually incorporated in the processed product.

(5) There is no need at present to fix an export refund for manioc, other tropical roots and tubers or flours obtained therefrom, given the economic aspect of potential exports and in particular the nature and origin of these products. For certain products processed from cereals, the insignificance of Community participation in world trade makes it unnecessary to fix an export refund at the present time.

(6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.

(7) The refund must be fixed once a month. It may be altered in the intervening period.

(8) Certain processed maize products may undergo a heat treatment following which a refund might be granted that does not correspond to the quality of the product; whereas it should therefore be specified that on these products, containing pregelatinised starch, no export refund is to be granted.

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 of Regulation (EC) No 1518/95 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 29 September 2006.

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

([2]) OJ L 270, 21.10.2003, p. 96. Regulation as last amended by Commission Regulation (EC) No 1549/2004 (OJ L 280, 31.8.2004, p. 13).

([3]) OJ L 147, 30.6.1995, p. 55. Regulation as last amended by Regulation (EC) No 2993/95 (OJ L 312, 23.12.1995, p. 25).

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

Done at Brussels, 28 September 2006.

For the Commission
Jean-Luc DEMARTY
Director-General for Agriculture and Rural Development

ANNEX

to Commission Regulation of 28 September 2006 fixing the export refunds on products processed from cereals and rice

Product code	Destination	Unit of measurement	Refunds
1102 20 10 9200 (1)	C13	EUR/t	37,67
1102 20 10 9400 (1)	C13	EUR/t	32,29
1102 20 90 9200 (1)	C13	EUR/t	32,29
1102 90 10 9100	C13	EUR/t	0,00
1102 90 10 9900	C13	EUR/t	0,00
1102 90 30 9100	C13	EUR/t	0,00
1103 19 40 9100	C13	EUR/t	0,00
1103 13 10 9100 (1)	C13	EUR/t	48,44
1103 13 10 9300 (1)	C13	EUR/t	37,67
1103 13 10 9500 (1)	C13	EUR/t	32,29
1103 13 90 9100 (1)	C13	EUR/t	32,29
1103 19 10 9000	C13	EUR/t	0,00
1103 19 30 9100	C13	EUR/t	0,00
1103 20 60 9000	C13	EUR/t	0,00
1103 20 20 9000	C13	EUR/t	0,00
1104 19 69 9100	C13	EUR/t	0,00
1104 12 90 9100	C13	EUR/t	0,00
1104 12 90 9300	C13	EUR/t	0,00
1104 19 10 9000	C13	EUR/t	0,00
1104 19 50 9110	C13	EUR/t	43,06
1104 19 50 9130	C13	EUR/t	34,98
1104 29 01 9100	C13	EUR/t	0,00
1104 29 03 9100	C13	EUR/t	0,00
1104 29 05 9100	C13	EUR/t	0,00
1104 29 05 9300	C13	EUR/t	0,00
1104 22 20 9100	C13	EUR/t	0,00
1104 22 30 9100	C13	EUR/t	0,00
1104 23 10 9100	C13	EUR/t	40,37
1104 23 10 9300	C13	EUR/t	30,95
1104 29 11 9000	C13	EUR/t	0,00
1104 29 51 9000	C13	EUR/t	0,00
1104 29 55 9000	C13	EUR/t	0,00
1104 30 10 9000	C13	EUR/t	0,00
1104 30 90 9000	C13	EUR/t	6,73
1107 10 11 9000	C13	EUR/t	0,00
1107 10 91 9000	C13	EUR/t	0,00
1108 11 00 9200	C13	EUR/t	0,00
1108 11 00 9300	C13	EUR/t	0,00
1108 12 00 9200	C13	EUR/t	43,06
1108 12 00 9300	C13	EUR/t	43,06
1108 13 00 9200	C13	EUR/t	43,06
1108 13 00 9300	C13	EUR/t	43,06
1108 19 10 9200	C13	EUR/t	0,00
1108 19 10 9300	C13	EUR/t	0,00
1109 00 00 9100	C13	EUR/t	0,00
1702 30 51 9000 (2)	C13	EUR/t	42,18
1702 30 59 9000 (2)	C13	EUR/t	32,29
1702 30 91 9000	C13	EUR/t	42,18
1702 30 99 9000	C13	EUR/t	32,29
1702 40 90 9000	C13	EUR/t	32,29
1702 90 50 9100	C13	EUR/t	42,18
1702 90 50 9900	C13	EUR/t	32,29
1702 90 75 9000	C13	EUR/t	44,20
1702 90 79 9000	C13	EUR/t	30,68
2106 90 55 9000	C14	EUR/t	32,29

(1) No refund shall be granted on products given a heat treatment resulting in pregelatinisation of the starch.

(2) Refunds are granted in accordance with Council Regulation (EEC) No 2730/75 (OJ L 281, 1.11.1975, p. 20), as amended.

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended. The numeric destination codes are set out in Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are as follows:

C10: All destinations

C11: All destinations except for Bulgaria

C12: All destinations except for Romania

C13: All destinations except for Bulgaria and Romania

C14: All destinations except for Switzerland, Liechtenstein, Bulgaria and Romania.

COMMISSION REGULATION (EC) No 1435/2006

of 28 September 2006

fixing the export refunds on cereal-based compound feedingstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 september 2003 on the common organisation of the market in cereals ([1]), and in particular Article 13(3) thereof,

Whereas:

(1) Article 13 of Regulation (EC) No 1784/2003 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Commission Regulation (EC) No 1517/95 of 29 June 1995 laying down detailed rules for the application of Regulation (EC) No 1784/2003 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ([2]) in Article 2 lays down general rules for fixing the amount of such refunds.

(3) That calculation must also take account of the cereal products content. In the interest of simplification, the refund should be paid in respect of two categories of 'cereal products', namely for maize, the most commonly used cereal in exported compound feeds and maize products, and for 'other cereals', these being eligible cereal products excluding maize and maize products. A refund should be granted in respect of the quantity of cereal products present in the compound feedingstuff.

(4) Furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export.

(5) The current situation on the cereals market and, in particular, the supply prospects mean that the export refunds should be abolished.

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the compound feedingstuffs covered by Regulation (EC) No 1784/2003 and subject to Regulation (EC) No 1517/95 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 29 September 2006.

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

Done at Brussels, 28 September 2006.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

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

([2]) OJ L 147, 30.6.1995, p. 51.

ANNEX

to the Commission Regulation of 28 September 2006 fixing the export refunds on cereal-based compound feedingstuffs

Product codes benefiting from export refund:

2309 10 11 9000, 2309 10 13 9000, 2309 10 31 9000,
2309 10 33 9000, 2309 10 51 9000, 2309 10 53 9000,
2309 90 31 9000, 2309 90 33 9000, 2309 90 41 9000,
2309 90 43 9000, 2309 90 51 9000, 2309 90 53 9000.

Cereal products	Destination	Unit of measurement	Amount of refunds
Maize and maize products: CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10	C10	EUR/t	0,00
Cereal products excluding maize and maize products	C10	EUR/t	0,00

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

C10: All destinations.

COMMISSION REGULATION (EC) No 1436/2006

of 28 September 2006

concerning tenders notified in response to the invitation to tender for the export of common wheat issued in Regulation (EC) No 936/2006

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 13(3) thereof,

Whereas:

(1) An invitation to tender for the refund for the export of common wheat to certain third countries was opened pursuant to Commission Regulation (EC) No 936/2006 [2].

(2) Article 7 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals [3], and in particular Article 13(3) thereof,

(3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95, a maximum refund should not be fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 22 to 28 September 2006 in response to the invitation to tender for the refund for the export of common wheat issued in Regulation (EC) No 936/2006.

Article 2

This Regulation shall enter into force on 29 September 2006.

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

Done at Brussels, 28 September 2006.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

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

[2] OJ L 172, 24.6.2006, p. 6.

[3] OJ L 147, 30.6.1995, p. 7. Regulation as last modified by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

II

(Acts whose publication is not obligatory)

COUNCIL

Information relating to the entry into force of Decision No 1/2006 of the EU-Tunisia Association Council of 28 July 2006 amending Protocol 4 to the Euro-Mediterranean Agreement, concerning the definition of the concept of originating products and methods of administrative cooperation [1]

Decision No 1/2006 of the EU-Tunisia Association Council of 28 July 2006 amending Protocol 4 to the Euro-Mediterranean Agreement, concerning the definition of the concept of originating products and methods of administrative cooperation, is applicable from 1 August 2006.

[1] OJ L 260, 21.9.2006, p. 1.

COMMISSION

DECISION No 1/2006 OF THE EU-SWISS JOINT COMMITTEE

of 6 July 2006

amending Annex II (Social Security) to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, on the Free Movement of Persons

(2006/652/EC)

THE JOINT COMMITTEE,

Having regard to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons and in particular Articles 14 and 18 thereof,

Whereas:

(1) The Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons (hereinafter referred to as 'the Agreement') was signed on 21 June 1999 and entered into force on 1 June 2002.

(2) Annex II to the Agreement, as amended by Decision No 2/2003 of the EU-Swiss Joint Committee of 15 July 2003 amending Annex II (Social Security) to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, on the free movement of persons [1], refers in particular to Council Regulations (EEC) No 1408/71 [2] and (EEC) No 574/72 [3], as updated by Regulation (EC) No 118/97 [4] as well as to subsequent amending Regulations, including Regulation (EC) No 1386/2001 of the European Parliament and of the Council [5] and Commission Regulation (EC) No 410/2002 [6].

(3) Regulations (EEC) No 1408/71 and (EEC) No 574/72 have, since the adoption of Decision 2/2003 of the EU-Swiss Joint Committee, been amended twice. Consequently, it is now necessary to incorporate the relevant amending acts, namely Commission Regulation (EC) No 1851/2003 [7] and Regulation (EC) No 631/2004 of the European Parliament and of the Council [8], into the Agreement, and more specifically into Annex II thereto.

(4) The option to request exemption from compulsory Swiss sickness insurance should be offered to pensioners who receive a Swiss pension and who reside in Portugal as they will be covered by the Portuguese sickness insurance.

(5) Persons who reside in France and who are insured under the Swiss sickness insurance scheme despite the possibility to ask for exemption should have access to healthcare in France and in Switzerland.

(6) It needs to be indicated that Switzerland does not have a scheme which provides only for family allowances or supplementary or special allowances for orphans.

(7) Annex II needs to be amended to list the competent German institution and liaison body regarding pension insurance in relation to Switzerland.

[1] OJ L 187, 26.7.2003, p. 55.
[2] OJ L 149, 5.7.1971, p. 2.
[3] OJ L 74, 27.3.1972, p. 1.
[4] OJ L 28, 30.1.1997, p. 1.
[5] OJ L 187, 10.7.2001, p. 1.
[6] OJ L 62, 5.3.2002, p. 17.
[7] OJ L 271, 22.10.2003, p. 3.
[8] OJ L 100, 6.4.2004, p. 1.

(8) The complicated and technical nature of the coordination of social security schemes requires effective and coherent coordination through the application of common and homogeneous provisions within the territory of the Contracting parties.

(9) It is in the interest of the persons covered by the Agreement to resolve, or at least limit in time, any negative effects arising from the application of different coordination rules by the Contracting Parties.

(10) Amendments to Annex II which insert the reference to Regulation (EC) No 631/2004 and which refer to the possibility of exempting pensioners residing in Portugal from Swiss compulsory insurance should take effect as from 1 June 2004, and amendments which concern the possibility for persons residing in France to access healthcare in Switzerland should take effect as from 1 January 2004,

HAS DECIDED AS FOLLOWS:

Article 1

Annex II to the Agreement shall be amended as set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption by the Joint Committee.

However:

— provisions of this Decision which insert the reference to Regulation (EC) No 631/2004, as well as those regarding Point 3(b) of Annex II to the Agreement, extending the possibility of exemption from Swiss compulsory insurance for pensioners residing in Portugal shall take effect on 1 June 2004;

— provisions of this Decision regarding Point 4 of Annex II to the Agreement offering access to healthcare in Switzerland to persons who are covered by the Swiss sickness insurance scheme and who reside in France shall take effect on 1 January 2004.

Done at Brussels, 6 July 2006.

For the Joint Committee

The Chairman

Dieter GROSSEN

ANNEX

Annex II to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons is hereby amended as follows:

1. The following is added under the Title 'Section A: Acts referred to' under point 1 'Regulation (EEC) No 1408/71' as the last entry.

   '304 R 631: Regulation (EC) No 631/2004 of the European Parliament and of the Council of 31 March 2004 amending Council Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community, and Council Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71, in respect of the alignment of rights and the simplification of procedures (OJ L 100, 6.4.2004, p. 1).'

2. Under the heading 'For the purposes of this Agreement, the Regulation shall be amended as follows:', point 1 of Section A of Annex II of the Agreement is amended as follows:

   (a) Under (o), concerning Annex VI, insert the following under No 3, (b) after the word '… Finland':

   'and with regard to persons referred to in (a) (ii), Portugal.'

   (b) Under (o), concerning Annex VI, insert under No 4 after the word 'Belgium,' the word 'France'.

   (c) After p), concerning Annex VII, add a new paragraph q):

   'q) The following shall be added to Annex VIII:

   Switzerland

   None'

3. The following references are inserted under the Title 'Section A: Acts referred to' under point 2, 'Regulation (EEC) No 574/72':

   (a) after the reference '302 R 410: Commission Regulation (EC) No 410/2002 …':

   and, once the Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons regarding the participation as Contracting Parties of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic pursuant to their accession to the European Union has entered into force,

   before the reference '12003 TN 02/02/A: Act concerning the conditions of accession …'

   '303 R 1851: Commission Regulation (EC) No 1851/2003 of 17 October 2003 amending Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ L 271, 22.10.2003, p. 3).'

   (b) after the above title of Regulation (EC) No 1851/2003 and, once the Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons regarding the participation as Contracting Parties of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic pursuant to their accession to the European Union has entered into force,

   after the reference '12003 TN 02/02/A: Act concerning the conditions of accession …'.

   '304 R 631: Regulation (EC) No 631/2004 of the European Parliament and of the Council of 31 March 2004 amending Council Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community, and Council Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71, in respect of the alignment of rights and the simplification of procedures (OJ L 100, 6.4.2004, p. 1)'.

4. Under the heading 'For the purposes of this Agreement, the Regulation shall be amended as follows:', point 2 of Section A of Annex II of the Agreement is amended as follows:

(a) Under b), concerning Annex 2, the following section is inserted before the section headed 'Switzerland':

'C. GERMANY

1. Under point 2 "Pension insurance for manual workers, clerical workers and miners", the following addition is made to (a)(i), first sentence:

"if the person concerned is resident in Switzerland or is a Swiss national resident in the territory of a non-member State:

Landesversicherungsanstalt Baden-Württemberg (Regional Insurance Office of Baden-Württemberg), Karlsruhe."

2. Under point 2 "Pension insurance for manual workers, clerical workers and miners", the following addition is made to (b)(i), first sentence:

"if the last contribution under the legislation of another Member State was paid into a Swiss pension insurance institution:

Landesversicherungsanstalt Baden-Württemberg (Regional Insurance Office of Baden-Württemberg), Karlsruhe".'

(b) Under c) concerning Annex 3, the following section is inserted before the section headed 'Switzerland':

'C. GERMANY

Under point 3 "Pension insurance", the following addition is made to (a):

In relation to Switzerland:

Landesversicherungsanstalt Baden-Württemberg (Regional Insurance Office of Baden-Württemberg), Karlsruhe'.

(c) Under d) concerning Annex 4, the following section is inserted before the section headed 'Switzerland':

'C. GERMANY

Under point 3 "Pension insurance", the following addition is made to (b):

In relation to Switzerland:

Landesversicherungsanstalt Baden-Württemberg (Regional Insurance Office of Baden-Württemberg), Karlsruhe'.

5. Section B of Annex II is amended as follows:

(a) Nos 4.19, 4.32, 4.48 and 4.68 are deleted.

(b) After No 4.68, the following new numbers are added

'4.69: Decision No 184 of 10 December 2001 on the model forms necessary for the application of Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 (E 201 to E 207, E 210, E 213 and E 215) (OJ L 304, 6.11.2002, p. 1)

4.70: Decision No 185 of 27 June 2002 amending Decision No 153 of 7 October 1993 (form E 108) and Decision No 170 of 11 June 1998 (compilation of the lists provided for in Article 94(4) and Article 95(4) of Council Regulation (EEC) No 574/72 of 21 March 1972) (OJ L 55, 1.3.2003, p. 74)

4.71: Decision No 186 of 27 June 2002 on the model forms necessary for the application of Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 (E 101) (OJ L 55, 1.3.2003, p. 80)

4.72: Decision No 187 of 27 June 2002 on the model forms necessary for the application of Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 (E 111 and E 111B) (OJ L 93, 10.4.2003, p. 40)

4.73: Decision No 188 of 10 December 2002 on the model forms necessary for the application of Council Regulation (EEC) No 574/72 (E 210 and E 211) (OJ L 112, 6.5.2003, p. 12)

4.74: Decision No 189 of 18 June 2003 aimed at introducing a European health insurance card to replace the forms necessary for the application of Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 as regards access to health care during a temporary stay in a Member State other than the competent State or the State of residence (OJ L 276, 27.10.2003, p. 1)

4.75: Decision No 190 of 18 June 2003 concerning the technical specifications of the European health insurance card (OJ L 276, 27.10.2003, p. 4)

4.76: Decision No 191 of 18 June 2003 concerning the replacement of forms E 111 and E 111B by the European health insurance card (OJ L 276, 27.10.2003, p. 19)

4.77: Decision No 192 of 29 October 2003 concerning the conditions for implementing Article 50(1)(b) of Council Regulation (EEC) No 574/72 (OJ L 104, 8.4.2004, p. 114)

For the purposes of this Agreement, the Decision is hereby amended as follows:

In point 2.4 the following shall be added:

Switzerland

Schweizerische Ausgleichskasse, Genf — Caisse suisse de compensation, Genève — Cassa svizzera di compensazione, Ginevra.

4.78: Decision No 193 of 29 October 2003 on the processing of pension claims (OJ L 104, 8.4.2004, p. 123)

4.79: Decision No 194 of 17 December 2003 concerning the uniform application of Article 22(1)(a)(i) of Council Regulation (EEC) No 1408/71 in the Member State of stay (OJ L 104, 8.4.2004, p. 127)

4.80: Decision No 195 of 23 March 2004 on the uniform application of Article 22(1)(a)(i) of Regulation (EEC) No 1408/71 as regards health care in conjunction with pregnancy and childbirth (OJ L 160, 30.4.2004, p. 134)

4.81: Decision No 196 of 23 March 2004 pursuant to Article 22(1a) of Regulation (EEC) No 1408/71 (OJ L 160, 30.4.2004, p. 135)

4.82: Decision No 197 of 23 March 2004 on the transitional periods for the introduction of the European Health Insurance Card in accordance with Article 5 of Decision No 191 (OJ L 343, 19.11.2004, p. 28)

4.83: Decision No 198 of 23 March 2004 concerning the replacement and abolition of the model forms necessary for the implementation of Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 (E110, E111, E111B, E113, E114, E119, E128, E128B) (OJ L 259, 5.8.2004, p. 1)'

6. In Section C: 'Acts of which the contracting parties shall take note' after No 6.4 the following new number is added:

'6.5: Recommendation No 23 of 29 October 2003 on the processing of pension claims (OJ L 104, 8.4.2004, p. 125).'

COMMISSION DECISION

of 25 September 2006

granting the Republic of Cyprus a derogation from certain provisions of Directive 2003/54/EC of the European Parliament and of the Council

(notified under document number C(2006) 4177)

(Only the Greek text is authentic)

(2006/653/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC [1], and in particular Article 26(1) thereof,

Having regard to the application submitted by the Republic of Cyprus on 28 June 2004,

After informing the Member States of the application,

Whereas:

(1) On 28 June 2004, the Republic of Cyprus submitted an application to the Commission, for a derogation from the provisions of Article 21(1)(b) of Directive 2003/54/EC for the period ending on 31 December 2008 and from Article 21(1)(c) for the period ending on 31 December 2013. Express authority for the submission of such application is contained in Article 26(1) of that Directive.

(2) The information provided was initially not adequate to permit the request to be assessed. Moreover, the consumption data presented included some consumption in the northern part of Cyprus. In the light of Article 1 paragraph 1 of Protocol No 10 on Cyprus to the Accession Treaty, the figures related to that part of Cyprus were considered immaterial to the examination. On request, Cyprus provided additional elements of information.

(3) The Republic of Cyprus qualifies as a 'small isolated system' as defined in point (26) of Article 2 of Directive 2003/54/EC. According to that provision, 'small isolated system' means any system with consumption of less than 3 000 GWh in 1996, and where less than 5 % of annual consumption is obtained through interconnections with other systems. In 1996, the Republic of Cyprus consumed 2 315,3 GWh. The Republic of Cyprus is an isolated not interconnected power system.

(4) The documents annexed to the application and those subsequently submitted provide sufficient evidence that it is not possible for the time being to achieve the objective of a competitive market in electricity given the size and structure of the electricity market on the island and the fact that the prospect of this system becoming interconnected with the main grid of a Member State is remote. An immediate opening up of the market would create substantial problems relating in particular to the security of supply of electricity.

(5) The Electricity Authority of Cyprus (ECA) is currently the only licensed supplier of electricity in Cyprus. A considerable burden has been placed on it by the government's decision, motivated by environmental considerations, to diversify the fuel mix, which currently depends on heavy fuel. For that reason, natural gas has been required to be introduced in the generation mix. ECA has agreed to build combined cycle units that will use natural gas in 2010. The required investments will place on ECA an extra burden that would be a disadvantage compared to its competitors.

(6) Furthermore, the government has provided generous incentives to potential investors in renewable energy sources notably for wind, photovoltaic and biomass capacity. The interest shown by the private sector is considerable. Electricity from renewable energy sources enjoys preferential access to the system. However, the unrestricted introduction and operation of electricity generation from renewable energy sources would create difficulties with regard to the stability of the system and security of supply.

(7) The opening up of the market would necessarily entail costly reinforcement of the transmission system, to avoid a negative impact on the reliability and security of the network. This would result in a tariff increase that would increase prices for the final customers. At present, no meaningful competition would be possible.

[1] OJ L 176, 15.7.2003, p. 37. Directive amended by Council Directive 2004/85/EC (OJ L 236, 7.7.2004, p. 10).

(8) The Commission, having examined the reasoning of the Republic of Cyprus application, is satisfied that the derogation and the conditions for its application will not prejudice the eventual achievement of the objectives of Directive 2003/54/EC.

(9) The derogation requested by the Republic of Cyprus should therefore be granted.

(10) However, whilst the application gives a fair description of the present situation, it does not take into consideration possible developments in the medium- and long-term, which are liable to lead to significant changes. The situation should therefore be monitored regularly.

HAS ADOPTED THIS DECISION:

Article 1

A derogation from points (b) and (c) respectively of Article 21(1) of Directive 2003/54/EC is granted to the Republic of Cyprus.

The derogation from Article 21(1)(b) of Directive 2003/54/EC shall apply until 31 December 2008.

The derogation from Article 21(1)(c) of Directive 2003/54/EC shall apply until 31 December 2013.

Article 2

The derogation may be withdrawn by the Commission if substantial changes occur in the electricity sector of the Republic of Cyprus.

To that end, Cyprus shall monitor the evolution of the electricity sector and shall report to the Commission any substantial changes therein, in particular information on new generating licenses, new entrants in the market, price movements and new infrastructure plans that may necessitate a review of the derogation.

In addition, the Republic of Cyprus shall submit a general report to the Commission every two years, starting no later than 31 December 2007. The reports shall set out tarification and pricing policy together with measures taken to protect customers' interests in the light of the derogation.

Article 3

This Decision is addressed to the Republic of Cyprus.

Done at Brussels, 25 September 2006.

For the Commission

Andris PIEBALGS

Member of the Commission