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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1581/2006
of 23 October 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 24 October 2006.

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

Done at Brussels, 23 October 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 23 October 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	64,3
	096	31,1
	204	40,0
	999	45,1
0707 00 05	052	109,1
	096	30,8
	999	70,0
0709 90 70	052	101,1
	204	47,7
	999	74,4
0805 50 10	052	66,9
	388	65,7
	524	58,0
	528	57,4
	999	62,0
0806 10 10	052	92,5
	400	192,3
	999	142,4
0808 10 80	388	79,4
	400	113,1
	404	100,0
	800	138,3
	804	140,2
	999	114,2
0808 20 50	052	109,0
	400	199,1
	720	51,9
	999	120,0

⁽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 DIRECTIVE 2006/85/EC
of 23 October 2006
amending Council Directive 91/414/EEC to include fenamiphos and ethephon as active substances
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, and in particular Article 6(1) thereof,

Whereas:

(1) Commission Regulations (EC) No 451/2000 ⁽²⁾ and (EC) No 703/2001 ⁽³⁾ lay down the detailed rules for the implementation of the second stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed, with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes fenamiphos and ethephon.

(2) For those active substances the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 451/2000 and (EC) No 703/2001 for a range of uses proposed by the notifier. Moreover, those Regulations designate the rapporteur Member States which have to submit the relevant assessment reports and recommendations to the European Food Safety Authority (EFSA) in accordance with Article 8(1) of Regulation (EC) No 451/2000. For fenamiphos the rapporteur Member State was the Netherlands and all relevant information was submitted on 27 November 2003. For ethephon the rapporteur Member State was the Netherlands and all relevant information was submitted on 21 April 2004.

(3) The assessment reports have been peer reviewed by the Member States and the EFSA and presented to the Commission on 13 January 2006 for fenamiphos and

on 24 April 2006 for ethephon in the format of the EFSA Scientific Reports ⁽⁴⁾. These reports have been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 14 July 2006 in the format of the Commission review reports for fenamiphos and ethephon.

(4) It has appeared from the various examinations made that plant protection products containing fenamiphos and ethephon may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC, in particular with regard to the uses which were examined and detailed in the Commission review reports. It is therefore appropriate to include these active substances in Annex I, in order to ensure that in all Member States the authorisations of plant protection products containing these active substances can be granted in accordance with the provisions of that Directive.

(5) A reasonable period should be allowed to elapse before an active substance is included in Annex I in order to permit Member States and the interested parties to prepare themselves to meet the new requirements which will result from the inclusion.

(6) Without prejudice to the obligations defined by Directive 91/414/EEC as a consequence of including an active substance in Annex I, Member States should be allowed a period of six months after inclusion to review existing authorisations of plant protection products containing fenamiphos and ethephon to ensure that the requirements laid down by Directive 91/414/EEC, in particular in its Article 13 and the relevant conditions set out in Annex I, are satisfied. Member States should vary, replace or withdraw, as appropriate, existing authorisations, in accordance with the provisions of Directive 91/414/EEC. By way of derogation from the above deadline, a longer period should be provided for the submission and assessment of the complete Annex III dossier of each plant protection product for each intended use in accordance with the uniform principles laid down in Directive 91/414/EEC.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2006/75/EC (OJ L 248, 12.9.2006, p. 3).

⁽²⁾ OJ L 55, 29.2.2000, p. 25. Regulation as last amended by Regulation (EC) No 1044/2003 (OJ L 151, 19.6.2003, p. 32).

⁽³⁾ OJ L 98, 7.4.2001, p. 6.

⁽⁴⁾ EFSA Scientific Report (2006) 62, 1-81, Conclusion regarding the peer review of the pesticide risk assessment of the active substance fenamiphos (finalised: 13 January 2006).
EFSA Scientific Report (2006) 67, 1-61, Conclusion regarding the peer review of the pesticide risk assessment of the active substance ethephon (finalised: 24 April 2006).

- (7) The experience gained from previous inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Regulation (EEC) No 3600/92 has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the directives which have been adopted until now amending Annex I.
- (8) It is therefore appropriate to amend Directive 91/414/EEC accordingly.
- (9) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 91/414/EEC is amended as set out in the Annex to this Directive.

Article 2

Member States shall adopt and publish by 31 January 2008 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 February 2008.

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

Article 3

1. Member States shall in accordance with Directive 91/414/EEC, where necessary, amend or withdraw existing authorisations for plant protection products containing fenamiphos and ethephon as active substances by 31 January 2008.

By that date they shall in particular verify that the conditions in Annex I to that Directive relating to fenamiphos and ethephon are met, with the exception of those identified in part B of the entry concerning that active substance, and that the holder of the authorisation has, or has access to, a dossier satisfying the requirements of Annex II to that Directive in accordance with the conditions of Article 13 of that Directive.

2. By way of derogation from paragraph 1, for each authorised plant protection product containing fenamiphos and ethephon as either the only active substance or as one of several active substances all of which were listed in Annex I to Directive 91/414/EEC by 31 July 2007 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles provided for in Annex VI to Directive 91/414/EEC, on the basis of a dossier satisfying the requirements of Annex III to that Directive and taking into account part B of the entry in Annex I to that Directive concerning fenamiphos and ethephon respectively. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 4(1)(b), (c), (d) and (e) of Directive 91/414/EEC.

Following that determination Member States shall:

- (a) in the case of a product containing fenamiphos and ethephon as the only active substance, where necessary, amend or withdraw the authorisation by 31 July 2011 at the latest; or
- (b) in the case of a product containing fenamiphos and ethephon as one of several active substances, where necessary, amend or withdraw the authorisation by 31 July 2011 or by the date fixed for such an amendment or withdrawal in the respective Directive or Directives which added the relevant substance or substances to Annex I to Directive 91/414/EEC, whichever is the latest.

Article 4

This Directive shall enter into force on 1 August 2007.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 23 October 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

The following entry shall be added at the end of the table in Annex I to Directive 91/414/EEC.

No	Common name, identification numbers	IUPAC name	Purity ⁽¹⁾	Entry into force	Expiration of inclusion	Specific provisions
143	Fenamiphos CAS No 22224-92-6 CIPAC No 692	(RS)-ethyl 4-methylthio-m-tolyl isopropyl-phosphoramidate	≥ 940 g/kg	1 August 2007	31 July 2017	<p>PART A</p> <p>Only uses as nematocide applied by drip irrigation in greenhouses with permanent structure may be authorised.</p> <p>PART B</p> <p>For the implementation of the uniform principles of Annex VI, the conclusions of the review report on fenamiphos, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 14 July 2006 shall be taken into account.</p> <p>In this overall assessment:</p> <p>— Member States must pay particular attention to the protection of aquatic organisms, soil non-target organisms and groundwater in vulnerable situations.</p> <p>Conditions of authorisation should include risk mitigation measures and monitoring programmes should be initiated to verify potential groundwater contamination in vulnerable zones, where appropriate.</p>
144	Ethephon CAS No 16672-87-0 CIPAC No 373	2-chloroethyl-phosphonic acid	≥ 910 g/kg (technical material — TC) The manufacturing impurities MEPHA (Mono 2-chloroethyl ester, 2-chloroethyl phosphonic acid) and 1,2-Dichloroethane are of toxicological concern and must not exceed respec- tively 20 g/kg and 0,5 g/kg in the technical material.	1 August 2007	31 July 2017	<p>PART A</p> <p>Only uses as plant growth regulator may be authorised.</p> <p>PART B</p> <p>For the implementation of the uniform principles of Annex VI, the conclusions of the review report on ethephon, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 14 July 2006 shall be taken into account.</p>

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

II

(Acts whose publication is not obligatory)

COUNCIL

Information on the date of entry into force of the Partnership Agreement between the European Community and the Solomon Islands on fishing off the Solomon Islands ⁽¹⁾

The European Community and the Government of the Solomon Islands notified each other on 28 June and 9 October 2006 respectively that their adoption procedures had been completed.

The Agreement accordingly entered into force on 9 October 2006 pursuant to Article 16 thereof.

⁽¹⁾ OJ L 105, 13.4.2006, p. 33.

COMMISSION

COMMISSION DECISION

of 20 October 2006

terminating the anti-dumping proceeding concerning imports of recordable digital versatile discs (DVD+/-R) originating in the People's Republic of China, Hong Kong and Taiwan

(2006/713/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

- (1) On 6 August 2005, the Commission announced by a notice 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 recordable digital versatile discs ('DVD+/-R') originating in the People's Republic of China ('PRC'), Hong Kong and Taiwan ('the countries concerned').
- (2) The proceeding was initiated as a result of a complaint lodged on 24 June 2005 by CECMA ('the complainant') on behalf of producers representing a major proportion, in this case more than 60 %, of the total Community production of DVD+/-R. The complaint contained evidence of dumping of DVD+/-R and of material injury resulting from it, which was considered sufficient to justify the initiation of a proceeding.

2. Parties concerned by the proceeding

- (3) The Commission officially advised the complainant, the complainant producers, other known Community producers, the exporting producers in the countries concerned, importers, distributors, retailers and consumer organisations known to be concerned, and representatives of the countries concerned of the opening of the proceeding.

⁽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 192, 6.8.2005, p. 12.

- (4) 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 all the other companies that made themselves known within the deadlines set out in the notice of initiation. Fifteen companies requested MET pursuant to Article 2(7) of the basic Regulation or IT should the investigation establish that they did not meet the conditions for MET.
- (5) The Commission sent questionnaires to all parties known to be concerned, including all complainant producers, all other known Community producers, exporting producers in the countries concerned and importers, retailers and distributors. Questionnaires were also sent to exporting producers in Japan that was considered a replacement for Taiwan as potential analogue country to establish a normal value for exporting producers in the PRC to which MET might not be granted. The change of potential analogue country followed objections raised by interested parties, mainly relating to the fact that dumping had been found in the past for major Taiwanese exporters of a neighbouring and to an extent, substitutable product. Replies were received from twenty-two exporting producers in the countries concerned, all complainant producers, one other Community producer, eight unrelated importers, one distributor and seven retailers (one of whom is a combined wholesaler/retailer).
- (6) Due to the high number of replies from the PRC (nine groups of companies) and Taiwan (eleven companies), sampling was applied for these two countries, as envisaged in the notice of initiation. In accordance with Article 17 of the basic Regulation, the sample was based on the largest representative volume of exports which can reasonably be investigated within the time available. The samples selected consisted respectively of four Chinese exporting producers, representing 79 % of the export volume of the Chinese co-operating parties and five Taiwanese exporting producers, representing 97 % of the export volume of the Taiwanese cooperating parties. In accordance with Article 17(2) of the basic Regulation, the Chinese and Taiwanese authorities were consulted and raised no objection. Concerning Hong Kong, sampling was not necessary.
- (7) The Commission sought and verified all the information deemed necessary for a determination of dumping, resulting injury and Community interest and carried out verifications at the premises of the following companies:
 - (a) Community producers
 - Computer Support Italcad s.r.l. (Milano, Italy)
 - Manufacturing Advanced Media (Mulhouse, France)
 - TDK Recording Media Europe (Luxembourg)
 - Sony DADC (Salzburg, Austria)
 - (b) Exporting producers in Hong Kong
 - UME Disc Ltd.
 - China Shing Manufacturing
 - MDA Technology Ltd.
 - Giant Base Technology Ltd.
 - Pop Hero Holdings Ltd.
 - Wealth Fair Investment Ltd.

- (c) Exporting producers in Taiwan
 - Prodisc Technology, Inc (Taipei, Taiwan)
 - Daxon Technology (Taipei, Taiwan)
 - (d) Unrelated importers and distributors
 - Verbatim Ltd (London, United Kingdom)
 - Maxell Europe Ltd (London, United Kingdom)
 - Philips Recordable Media (Wiesbaden, Germany)
 - Sony France S.A. (Paris, France)
 - Ingram Micro Distribution GmbH (München, Germany)
 - SK Kassetten GmbH & Co. KG (Neuenrade, Germany)
 - Intenso GmbH (Vechta, Germany)
 - Emtec International S.p.a. (Paris, France)
 - (e) Wholesaler/Retailer
 - Metro Group Buying GmbH
 - (f) Retailers
 - Carrefour Marchandises Internationales (Paris, France)
 - El Corte Inglés S.A. (Madrid, Spain)
 - FNAC S.A. (Paris, France)
 - (g) Producer in analogue country
 - Taiyo Yuden (Takasaki, Japan).
- (8) It is recalled that no provisional measures were imposed in the current investigation. All parties received a disclosure of the facts and considerations on which the decision not to impose provisional measures was based. All parties were granted a period within which they could make comments in relation to these disclosures.
- (9) Some interested parties submitted comments in writing. Those parties who requested were also granted an opportunity to be heard orally. The Commission continued to seek and verify all information it deemed necessary for its definitive findings.

3. Investigation Period

- (10) The investigation period of dumping and injury covered the period from 1 July 2004 to 30 June 2005 ('IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2002 to the end of the investigation period ('period considered').

4. Product concerned and like product

4.1. Product concerned

- (11) The product concerned is recordable digital versatile discs ('DVD+/-R') originating in the PRC, Hong Kong and Taiwan normally declared within CN code ex 8523 90 30 (CN code since 1 January 2006). This code covers products with a recording capacity exceeding 900 megabytes but not exceeding 18 gigabytes, other than erasable. This CN code is only given for information. The product concerned belongs to the recording media industry.
- (12) A DVD-R is an optical storage medium for digital data consisting of a polycarbonate disk, coated with single layers of dye. DVD+/-Rs consist normally of two 0,6 mm thick polycarbonate substrate of 120 mm or less, glued together. Although recording on such discs can be done in several steps, the recorded information can not be erased. The disk is an optical storage medium for digital data, music and video. Recording is realised by exposing the dye layer (recording dye) to an infrared laser beam in a DVD-R Recorder.
- (13) There are two different standards of DVD, namely DVD minus R ('DVD-R') and DVD plus R ('DVD+R'). Depending on what group of companies that originally developed the different standards, producers traditionally either supported the production of either DVD+R or DVD-R (For example, DVD-R is a product standard supported by a group labelled 'DVD Forum' which included *inter alia* the Japanese producer Panasonic). Nowadays, most producers are manufacturing and marketing both standards and almost all DVD-players are able to play both DVD-R and DVD+R.
- (14) DVD+/-Rs can be distinguished according to the appearance, the type of data stored, the storage capacity, the reflective metal layer and whether or not the DVD+/-R is printed upon. Furthermore, there are different kinds of recording speeds from 4× to higher speed DVD+/-Rs (8×, 16× or higher).
- (15) The product is sold in different quantities. DVD+/-Rs come on the market in different types of packaging, partly in so called 'slim/jewel-cases' containing 1 DVD+/-R, so called 'cake boxes' of 10 to 100 DVD+/-Rs, so called 'shrink/wrapped spindles' of 10 to 100 DVD+/-Rs and envelopes containing DVD+/-R packed in cellophane, carton boxes etc.
- (16) The usable capacity for single-layer DVD+/-R is 4,7 gigabyte ('GB'), whereas the double-sided layer of DVD+/-Rs is doubling the data storage capacity to 9,4 GB.
- (17) Although the quality of the various types of DVD+/-Rs sold differs, this does not entail any significant differences in the basic physical and technical characteristics of the different types and standards. Moreover, the investigation has shown that all DVD+/-Rs have the same end-use. They are therefore considered as one product for the purpose of this investigation.

4.2. Like product

- (18) The investigation has shown that there were no differences in the basic physical and technical characteristics and uses between the product concerned and the DVD+/-R's
 - produced and sold domestically in the countries concerned,
 - produced by the complainant producers and other Community producers and sold on the Community market,
 - produced and sold on the domestic market in the analogue country (Japan) for the purpose of establishing the normal value with respect to imports from the PRC.

- (19) It is therefore concluded that all types of DVD+/-Rs form one product and are considered to be alike within the meaning of Article 1(4) of the basic Regulation.

B. DUMPING, INJURY AND CAUSATION

- (20) The investigation established the existence of dumping and injury resulting from it. However, given the conclusions as set out below, it is not necessary to detail these findings.

C. COMMUNITY INTEREST

5. General remarks

- (21) In accordance with Article 21 of the basic Regulation it was examined whether, despite the conclusion on injurious dumping, compelling reasons exist for concluding that it is not in the Community interest to adopt anti-dumping measures in this particular case. The likely impact of possible measures on all parties involved as well as the likely consequences of not taking measures were considered.
- (22) The definition of Community production and Community industry has followed the criteria set out in Articles 4(1) and 5(4) of the basic Regulation.
- (23) In this case, the following related companies have been considered to constitute the Community industry:
- Computer Support Italcad s.r.l. ('CSI')
 - Manufacturing Advanced Media ('MAME').
- (24) In the complaint, one more company was also mentioned as complainant. However, it was found that this company imported from the countries concerned a major portion, as compared to the total production, of the product concerned during the IP. These imports had occurred over a sustained period of time. Furthermore, this company was found to have the core of activities located outside the Community. Therefore, in accordance with Article 4(1)(a) of the basic Regulation, this company has been excluded from the definition of the Community industry.
- (25) Moreover, one additional producer also fully cooperated. However, it was found that also this company imported from the countries concerned a major portion, as compared to the total production, of the product concerned during the IP. These imports were found to have taken place over a sustained period of time. As detailed in recital 24, also this company, as part of a company group, has its core activities located outside the Community. Therefore, in accordance with Article 4(1)(a) of the basic Regulation, this company has been also excluded from the definition of the Community industry.
- (26) Finally, further to the liquidation of one of the two remaining companies after the end of the investigation period, it was considered whether this company should be excluded from the definition of the Community industry. However, in view of the conclusions reached below, it was not considered necessary to take a decision on this issue.
- (27) Therefore, only CSI and MAME, whose collective output constitutes 88 % of the total estimated Community production, constitute the Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation.

6. Interest of the Community industry, unrelated importers, users and consumers

- (28) Based on information gathered from the interested parties, the evolution of total consumption in the Community and market shares of the Community industry during the period considered have developed as follows below:

EU consumption

Thousands of units	2002	2003	2004	IP
Total EU consumption	10 570	602 390	1 575 562	1 687 509
Index (2002 = 100)	100	5 700	14 906	15 965

Total EU consumption of the product concerned increased massively by almost 16 000 percentage points.

Market shares on the Community market

	2002	2003	2004	IP
Community Industry	0 %	0,4 %	0,6 %	0,8 %
Cooperating producers excluded from the definition of the Community production (see recitals (24) to (25) above)	6,3 %	1,0 %	3,1 %	5,1 %
Other non-cooperating producers in the Community still in operation (estimation)	0 %	0,5 %	0,2 %	0,2 %
Imports from the countries concerned	93,7 %	87,6 %	89,0 %	86,1 %
Imports from other third countries	0 %	10,5 %	7,1 %	7,8 %

- (29) On the basis of the facts provided above, it appears that the Community industry's share of the Community market started from 0 % in 2000 but still only reached 0,8 % in the IP. The market share of imports from the countries concerned decreased in the period considered, but was still at a level of around 87 % during the IP. Their loss of market share corresponded broadly to the increase of imports from third countries.
- (30) The complainant has argued that some of the non-cooperating producers that have ceased their production during or after the end of the IP could resume their production should measures be introduced. However, in the absence of information directly from these non-cooperating producers that would confirm these alleged intentions, or other evidence substantiating the allegation, this argument has to be rejected. It is also noted that even if these companies were to resume production, their production would in all likelihood not be very substantial as compared to the very important volumes from the countries concerned.
- (31) Moreover, and as seen from above, it appears evident that the production of DVD+/-Rs by the Community industry started up rather late as compared to the exporters in the countries concerned. It is highly unlikely that the imposition of measures would enable the Community industry to increase their prices to reach a level of profitability which would allow them to survive or alternatively, to increase their sales to lower the cost of production and thereby to benefit from economies of scale. The developments during the period considered, show that the Community industry has never been able to gain a substantial market share and the loss of market share by the countries concerned was almost entirely taken over by imports from third countries. Furthermore, two out of the four cooperating companies gave up their interests as Community producers and became importers of DVD+/-Rs from the countries concerned. Under these circumstances, it is highly unlikely that the remaining Community industry would be viable and could benefit from the imposition of anti-dumping measures.

- (32) All importers, distributors and most of the retailers have argued that, should measures be introduced, the resulting cost increase would have to be borne by one or several levels in the distribution chain (thereby significantly decreasing their respective margins), or passed on to the consumers (thereby perhaps even affecting the overall consumption of the DVD+/-Rs negatively), or shared between both.
- (33) The likely reaction of importers, distributors or retailers to the cost increase following the imposition of measures will depend on the situation of each Member State. In some Member States, the demand for DVD+/-Rs is already under pressure from 'special levies' on recordable media (a tax which increases the retail price significantly for the consumer). In this case, the consumers of DVD +/-Rs would possibly not be ready to pay more as a result of anti-dumping duties as the retail price is already perceived as high. The full cost of measures would in all likelihood therefore have to be borne by the distribution chain in order to avoid that consumers turn increasingly to other means of media storages such as hard discs and flash memory sticks. As the mark-up of the importers/wholesalers in these countries can be estimated at around 4 %, the imposition of anti-dumping duties would significantly decrease the already small margin.
- (34) Adversely, in Member States with the lowest (or absence of) special levies, it is more likely that a substantial part of the cost increase is passed on to consumers. Therefore, the relative effect of anti-dumping measures would be the greatest there, since the price increase would be relatively higher. As a result, consumption might decrease, as consumers would have an incentive to turn to substitution products.
- (35) It follows from the above that the price strategy of the importers, distributors and retailers will vary depending on the situation in each Member State. Nonetheless, it is apparent that all of them will suffer from the introduction of anti-dumping measures, either by way of decreased margins or by way of decreased sales volumes. Similarly, to the extent that the cost increase of anti-dumping measures is passed on the consumers, the latter will also be negatively affected.
- (36) Many interested parties stated that the effect of any measures on the Community industry should be set against the risk that the consumption of DVD+/-Rs would in any event decrease in favour of other media storage products such as hard discs on DVD-recorders and flash-memory sticks. Indeed, the investigation proved that the technological development in the market of media storage products is fast and that the new media storage products have the advantage of bigger storage capacity which, in the case of flash memory sticks, is combined with small sizes.
- (37) It has been further argued that the situation of the Community industry would be the result of abusive behaviour by certain dominant exporting producers, consisting in pursuing a strategy of below-cost prices which would have prevented the Community industry from building up any significant market presence. Firstly, it has to be noted that a corresponding decision or investigation concerning an abuse of dominance under the EU competition rules does not exist, nor has the complainant pointed to any respective decision under national competition rules. Secondly, the investigation has revealed a large number of operators in Europe and the world on the relevant product market. Within the purview of this investigation it has not been demonstrated that any of the operators, solely or jointly, holds a market share significant enough that this could likely be considered to constitute a dominant position. In addition, neither has it been demonstrated that any of the companies enjoys such economic strength as to impede effective competition. Thirdly, there is no indication of any significant loss-making with the exporters concerned suggesting that the exporters pursued a strategy of selling below-cost prices. The argument was therefore rejected.

- (38) Moreover, while Article 21 of the basic Regulation indeed refers to the need to give special consideration to the need to remedy the trade distorting effects of injurious dumping and to restore effective competition, this particular provision has to be seen in the overall framework of the Community interest test as laid down in the aforementioned Article. Thus the effects of imposing measures or not imposing measures on all parties concerned have to be examined and balanced. In this respect it should be noted that there are a number of other exporters and producers in competition on the world market and to a certain extent also on the Community market. Even in a medium term perspective the Community industry would be unlikely to take full benefit of possible measures given that it is to be expected that other third countries would considerably increase their part on the Community market.
- (39) Taking into account the relative maturity of the DVD+/-Rs market, the prospect of Community industry to become a strong player in the short or medium term would appear quite remote in particular in terms of market share, production capacity or technology, if measures are imposed. Otherwise, the imposition of measures would concern nearly 90 % of the EU consumption of the product concerned and would be detrimental to importers, distributors, retailers and consumers. In such circumstances, the imposition of anti-dumping measures would be disproportionate.
- (40) On the basis of the above, it can be concluded that the imposition of measures would have substantial negative effects on importers, distributors, retailers and consumers of the product concerned and that the Community industry is unlikely to obtain any significant benefits. It is therefore considered that the imposition of measures would be disproportionate and against the Community interest.

7. Conclusion of Community Interest

- (41) In view of the above, compelling reasons exist on Community interest grounds not to adopt anti-dumping measures as regards imports of DVD+/-Rs from the countries concerned.

D. TERMINATION OF THE PROCEEDING

- (42) Under these circumstances, the proceeding with regard to imports of DVD+/-Rs from the countries concerned should be terminated on the grounds of Community interest.
- (43) The complainant and all other interested parties were informed of the essential facts and considerations on the basis of which the Commission intends to terminate this proceeding. Subsequently, the complainants made known their views which however were not of a nature to change the above conclusions,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports of recordable digital versatile discs ('DVD+/-R') originating in the People's Republic of China, Hong Kong and Taiwan, falling within CN Code ex 8523 90 30 (CN code since 1 January 2006) is hereby terminated.

Done at Brussels, 20 October 2006.

For the Commission
Peter MANDELSON
Member of the Commission

COMMISSION DECISION

of 23 October 2006

suspending the definitive anti-dumping duty imposed by Regulation (EC) No 215/2002 on imports of ferro molybdenum originating in the People's Republic of China

(2006/714/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

that the anti-dumping measures concerned may be reinstated at any time if the reason for suspension is no longer applicable.

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 14(4) thereof,

- (4) Eurofer, on behalf of a number of users of the product concerned, has alleged that in the time since the investigation period, the market situation has changed. The complainants in the original investigation and other Community producers of the product concerned, represented by Euroalliages, commented on these allegations, and an adversarial exchange of views took place.

After consulting the Advisory Committee,

Whereas:

- (5) Since the definitive imposition of the measures in February 2002, Chinese imports have decreased substantially. Eurostat statistics point to a drop from ca. 12 KT in 2001 to virtually no imports in the period 1 April 2005-31 March 2006. Euroalliages calculated a higher degree of penetration with imports reaching over 1 KT based on the allegation that certain imports declared as having a Dutch origin were in reality Chinese. In any event, even under this assumption, the very significant drop in import penetration is clear.

A. PROCEDURE

- (1) The Council, by Regulation (EC) No 215/2002 of 28 January 2002⁽²⁾, imposed a definitive anti-dumping duty on imports of ferro molybdenum originating in the People's Republic of China (PRC), falling under CN code 7202 70 00 (the product concerned). The rate of the anti-dumping duty is 22,5 %.
- (2) Information on a change of market conditions which occurred after the original investigation period (i.e. from 1 October 1999 to 30 September 2000), and which might justify the suspension of the measures currently in force, in accordance with Article 14(4) of the basic Regulation, was provided to the Commission. Consequently, the Commission examined whether such suspension was warranted.

- (6) Regarding imports from other third countries, these have increased from ca. 2,7 KT to 10,7 KT, thus compensating partially the drop in Chinese imports. Consumption has increased by 14 %.
- (7) Market prices in the Community have increased from ca. EUR 8/kg in the original IP to ca. EUR 80/kg in 2005 and are in the range of ca. EUR 60/kg in 2006. These trends can also be found in other major markets across the world.

B. GROUNDS

- (3) Article 14(4) of the basic Regulation provides that, in the Community interest, anti-dumping measures may be suspended on the grounds that market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of such suspension, provided that the Community industry has been given an opportunity to comment and these comments have been taken into account. Article 14(4) further specifies

- (8) Out of the factors claimed by the parties the main explanation for this price increase seems to be a shortage in roasting capacities, i.e., the capacities to transform molybdenum concentrate into molybdenum oxide (which is then converted into ferro molybdenum). This driving factor explains to a large extent the price increases and the demand-supply imbalance that this has generated in the Community market. On the basis of the information presented, it appears that the roasting capacity shortfall will disappear in all likelihood in the course of 2007 as a result of new roasting capacity coming on stream.

⁽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 35, 6.2.2002, p. 1.

- (9) With regard to the Community industry, it is to be noted that since the imposition of the measures, the situation of the Community industry has improved. The sales and production volumes have increased by 25 % and 5 % respectively, reaching a market share of ca. 26 %. The profit situation also improved. Although the Community industry has not consistently achieved the normal 5 % profit level established by the original investigation, the Community industry has, however, gained up to 5 percentage points and become profitable.
- (10) Chinese export prices to third countries have followed the same upward trend described above indicating that should measures be suspended it is unlikely that they would decrease in the very short term to such an extent that injury would resume.
- (11) No indications have been found as to why the suspension would not be in the Community interest.

C. CONCLUSION

- (12) In conclusion, given the temporary change in market conditions, and in particular the high level of prices of the product concerned practised on the Community market, which is far above the injurious level found in the original investigation, together with the alleged demand-supply imbalance of the product concerned, it is considered that the injury linked to the imports of the product concerned originating in the PRC is unlikely to resume as a result of the suspension. It is therefore proposed to suspend for nine months the measures in force in accordance with Article 14(4) of the basic Regulation.
- (13) Pursuant to Article 14(4) of the basic Regulation, the Commission has informed the Community industry of its intention to suspend the anti-dumping measures in force. The Community industry has been given an opportunity to comment. The Community industry did not oppose the suspension of the anti-dumping measures in force.

- (14) The Commission therefore considers that all requirements for suspending the anti-dumping duty imposed on the product concerned are met, in accordance with Article 14(4) of the basic Regulation. Consequently, the anti-dumping duty imposed by Regulation (EC) No 215/2002 should be suspended for a period of nine months.
- (15) The Commission will monitor the development of imports and the prices of the product concerned. Should a situation arise at any time in which increased volumes at dumped prices of the product concerned from the PRC resume and consequently cause injury to the Community industry, the Commission will reinstate the anti-dumping duty by repealing the present suspension,

HAS ADOPTED THIS DECISION:

Article 1

The definitive anti-dumping duty imposed by Council Regulation (EC) No 215/2002 on imports of ferro molybdenum, falling within CN code 7202 70 00, and originating in the People's Republic of China is hereby suspended for a period of nine months.

Article 2

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

Done at Brussels, 23 October 2006.

For the Commission
Peter MANDELSON
Member of the Commission

COMMISSION RECOMMENDATION**of 23 October 2006****adapting Recommendation 2000/473/Euratom on the application of Article 36 of the Euratom Treaty concerning the monitoring of the levels of radioactivity in the environment for the purpose of assessing the exposure of the population as a whole, by reason of the accession of Bulgaria and Romania***(notified under document number C(2006) 4931)**(2006/715/Euratom)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty of Accession of Bulgaria and Romania, and in particular Article 4(3) thereof,

Having regard to the Act of Accession of Bulgaria and Romania, and in particular Article 56 thereof,

Whereas:

- (1) Pursuant to Article 56 of the Act of Accession, where acts which remain valid beyond 1 January 2007 require adaptation by reason of accession, and the necessary adaptations have not been provided for in the Act of Accession or its Annexes, the necessary adaptations are to be adopted by the Commission in all cases where the Commission adopted the original act.
- (2) The Final Act of the Conference which drew up the Treaty of Accession indicated that the High Contracting Parties had reached political agreement on a set of adaptations to acts adopted by the Institutions required by reason of accession and invited the Council and the Commission to adopt these adaptations before accession, completed and updated where necessary to take account of the evolution of the law of the Union.

- (3) Commission Recommendation 2000/473/Euratom of 8 June 2000 on the application of Article 36 of the Euratom Treaty concerning the monitoring of the levels of radioactivity in the environment for the purpose of assessing the exposure of the population as a whole ⁽¹⁾ should therefore be amended accordingly,

HEREBY RECOMMENDS:

1. Recommendation 2000/473/Euratom is amended as set out in the Annex.
2. This Recommendation shall enter into force subject to, and on the date of, the entry into force of the Treaty of Accession of Bulgaria and Romania.
3. This Recommendation is addressed to the Member States.

Done at Brussels, 23 October 2006.

For the Commission
Olli REHN
Member of the Commission

⁽¹⁾ OJ L 191, 27.7.2000, p. 37. Recommendation as amended by the 2003 Act of Accession.

ANNEX

ENVIRONMENT

RADIATION PROTECTION

32000 H 0473: Commission Recommendation 2000/473/Euratom of 8 June 2000 on the application of Article 36 of the Euratom Treaty concerning the monitoring of the levels of radioactivity in the environment for the purpose of assessing the exposure of the population as a whole (OJ L 191, 27.7.2000, p. 37), as amended by:

- 12003 T: Act concerning the conditions of accession and the adjustments to the Treaties — Accession 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 (OJ L 236, 23.9.2003, p. 33).

In Annex II, the following is added to the table:

'BG	Bulgaria	
RO	Romania'	

and the map is replaced by the following:

Definition of the geographical regions

