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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1909/2006**of 18 December 2006****amending the Annex to Regulation (EC) No 2042/2000 imposing a definitive anti-dumping duty on imports of television camera systems originating in Japan**

THE COUNCIL OF THE EUROPEAN UNION,

product definition under Article 1(2) of that Regulation, but which cannot be regarded as television camera systems.

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),

(4) The Commission, by notice of 29 September 2005 ⁽⁴⁾, initiated a review, pursuant to Article 11(2) of the basic Regulation, of Regulation (EC) No 2042/2000 which imposed the existing anti-dumping measures on imports of TCS originating in Japan.

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

(5) The Commission, by notice of 18 May 2006, initiated an anti-dumping proceeding concerning imports of certain camera systems originating in Japan pursuant to Article 5 of the basic Regulation. Given that the product scope of this proceeding includes the products subject to measures by Regulation (EC) No 2042/2000, the Commission also initiated by the notice of 18 May 2006, a review, under Article 11(3) of the basic Regulation, of the existing measures.

Whereas:

A. PREVIOUS PROCEDURES

(1) The Council, by Regulation (EC) No 1015/94 ⁽²⁾, imposed a definitive anti-dumping duty on imports of television camera systems (TCS) originating in Japan.

B. INVESTIGATION CONCERNING NEW MODELS OF PROFESSIONAL CAMERA SYSTEMS**1. Procedure**

(2) In September 2000, the Council, by Regulation (EC) No 2042/2000 ⁽³⁾ confirmed the definitive anti-dumping duties imposed by Regulation (EC) No 1015/94 (as subsequently amended) pursuant to Article 11(2) of the basic Regulation.

(6) One Japanese exporting producer, Hitachi Denshi (Europa) GmbH (Hitachi) informed the Commission that it intended to introduce a new model of professional camera systems into the Community market and requested the Commission to add this new model of professional camera systems to the Annex of Regulation (EC) No 2042/2000 and thus exempt it from the scope of the anti-dumping duties.

(3) In Article 1(3)(e) of Regulation (EC) No 2042/2000, the Council specifically excluded from the scope of the anti-dumping duty camera systems listed in the Annex to that Regulation (the Annex), representing high-end professional camera systems technically falling within the

(7) The Commission informed the Community industry accordingly and commenced an investigation limited to the determination of whether the product under consideration falls within the scope of the anti-dumping duties and whether the operative part of Regulation (EC) No 2042/2000 should be amended accordingly.

⁽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 111, 30.4.1994, p. 106. Regulation as last amended by Regulation (EC) No 1754/2004 (OJ L 313, 12.10.2004, p. 1).

⁽³⁾ OJ L 244, 29.9.2000, p. 38. Regulation as last amended by Regulation (EC) No 913/2006 (OJ L 169, 22.6.2006, p. 1).

⁽⁴⁾ OJ C 239, 29.9.2005, p. 9.

2. Model under investigation

- (8) The request for exemption was received for the following model of camera systems, supplied with the relevant technical information:

Hitachi:

— Camera head V-35W.

This model was presented as a successor model of the already exempted V-35 camera head.

3. Findings

- (9) Camera head V-35W falls within the product description of Article 1(2)(a) of Regulation (EC) No 2042/2000. However, as with its predecessor model, it is mainly used for professional applications and it is not sold with the corresponding triax system or adaptor on the EC market.
- (10) Therefore, it was found that it qualifies as a professional camera system within the meaning of Article 1(3)(e) of Regulation (EC) No 2042/2000. As a result, it should be excluded from the scope of the existing anti-dumping measures and added to the Annex of Regulation (EC) No 2042/2000.
- (11) In accordance with the established Community institutions' practice, the new model should be exempted from the anti-dumping duty from the date of receipt by the Commission services of the relevant request for exemption. Therefore, all imports of the following camera model imported on or after 11 April 2006 should be exempted from the anti-dumping duty from that date:

Hitachi:

— Camera head V-35W.

4. Information of the interested parties and conclusions

- (12) The Commission informed the Community industry and the exporting producer of TCS concerned of its findings and provided them with an opportunity to present their views. None of the parties objected to the Commission's findings.
- (13) In view of the above, it is proposed to amend the Annex of Regulation (EC) No 2042/2000 accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 2042/2000 shall be replaced by the Annex hereto.

Article 2

1. This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.
2. This Regulation shall apply to imports of the following model produced and exported to the Community by the following exporting producer:

Hitachi from 11 April 2006

— Camera head V-35W.

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

Done at Brussels, 18 December 2006.

For the Council
The President
J.-E. ENESTAM

ANNEX

'ANNEX

List of professional camera systems not qualified as television camera systems (broadcast camera systems), which are exempted from the measures

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit	Camera adapters
Sony	DXC-M7PK	DXF-3000CE	CCU-M3P	RM-M7G	—	CA-325P
	DXC-M7P	DXF-325CE	CCU-M5P	RM-M7E ⁽¹⁾		CA-325AP
	DXC-M7PH	DXF-501CE	CCU-M7P			CA-325B
	DXC-M7PK/1	DXF-M3CE	CUU-M5AP ⁽¹⁾			CA-327P
	DXC-M7P/1	DXF-M7CE				CA-537P
	DXC-M7PH/1	DXF-40CE				CA-511
	DXC-327PK	DXF-40ACE				CA-512P
	DXC-327PL	DXF-50CE				CA-513
	DXC-327PH	DXF-601CE				VCT-U14 ⁽¹⁾
	DXC-327APK	DXF-40BCE				
	DXC-327APL	DXF-50BCE				
	DXC-327AH	DXF-701CE				
	DXC-537PK	DXF-WSCE ⁽¹⁾				
	DXC-537PL	DXF-801CE ⁽¹⁾				
	DXC-537PH	HDVF-C30W				
	DXC-537APK					
	DXC-537APL					
	DXC-537APH					
	EVW-537PK					
	EVW-327PK					
	DXC-637P					
	DXC-637PK					
	DXC-637PL					
	DXC-637PH					
	PVW-637PK					
	PVW-637PL					
	DXC-D30PF					
	DXC-D30PK					
	DXC-D30PL					
	DXC-D30PH					
	DSR-130PF					
	DSR-130PK					
	DSR-130PL					
	PVW-D30PF					
	PVW-D30PK					
	PVW-D30PL					
	DXC-327BPF					
	DXC-327BPK					
	DXC-327BPL					
	DXC-327BPH					
	DXC-D30WSP ⁽¹⁾					
	DXC-D35PH ⁽¹⁾					
	DXC-D35PL ⁽¹⁾					
	DXC-D35PK ⁽¹⁾					
	DXC-D35WSPL ⁽¹⁾					
	DSR-135PL ⁽¹⁾					

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit	Camera adapters
Ikegami	HC-340	VF15-21/22	MA-200/230	RCU-240	—	CA-340
	HC-300	VF-4523	MA-200A ⁽¹⁾	RCU-390 ⁽¹⁾		CA-300
	HC-230	VF15-39	MA-400 ⁽¹⁾	RCU-400 ⁽¹⁾		CA-230
	HC-240	VF15-46 ⁽¹⁾	CCU-37	RCU-240A		CA-390
	HC-210	VF5040 ⁽¹⁾	CCU-10			CA-400 ⁽¹⁾
	HC-390	VF5040W ⁽¹⁾				CA-450 ⁽¹⁾
	LK-33					
	HDL-30MA					
	HDL-37					
	HC-400 ⁽¹⁾					
	HC-400W ⁽¹⁾					
	HDL-37E					
	HDL-10					
	HDL-40					
	HC-500 ⁽¹⁾					
	HC-500W ⁽¹⁾					
Hitachi	SK-H5	GM-5 (A)	RU-C1 (B)	—	—	CA-Z1
	SK-H501	GM-5-R2 (A)	RU-C1 (D)			CA-Z2
	DK-7700	GM-5-R2	RU-C1			CA-Z1SJ
	DK-7700SX	GM-50	RU-C1-S5			CA-Z1SP
	HV-C10	GM-8A ⁽¹⁾	RU-C10 (B)			CA-Z1M
	HV-C11	GM-9 ⁽¹⁾	RU-C10 (C)			CA-Z1M2
	HV-C10F	GM-51 ⁽¹⁾	RC-C1			CA-Z1HB
	Z-ONE (L)		RC-C10			CA-C10
	Z-ONE (H)		RU-C10			CA-C10SP
	Z-ONE		RU-Z1 (B)			CA-C10SJA
	Z-ONE A (L)		RU-Z1 (C)			CA-C10M
	Z-ONE A (H)		RU-Z1			CA-C10B
	Z-ONE A (F)		RC-C11			CA-Z1A ⁽¹⁾
	Z-ONE A		RU-Z2			CA-Z31 ⁽¹⁾
	Z-ONE B (L)		RC-Z1			CA-Z32 ⁽¹⁾
	Z-ONE B (H)		RC-Z11			CA-ZD1 ⁽¹⁾
	Z-ONE B (F)		RC-Z2			CA-Z35 ⁽¹⁾
	Z-ONE B		RC-Z21			EA-Z35 ⁽¹⁾
	Z-ONE B (M)		RC-Z2A ⁽¹⁾			
	Z-ONE B (R)		RC-Z21A ⁽¹⁾			
	FP-C10 (B)		RU-Z3 ⁽¹⁾			
	FP-C10 (C)		RC-Z3 ⁽¹⁾			
	FP-C10 (D)		RU-Z35 ⁽¹⁾			
	FP-C10 (G)		RU-3300N ⁽¹⁾			
	FP-C10 (L)					
	FP-C10 (R)					
	FP-C10 (S)					
	FP-C10 (V)					
	FP-C10 (F)					
	FP-C10					
	FP-C10 A					
	FP-C10 A (A)					
	FP-C10 A (B)					
	FP-C10 A (C)					
	FP-C10 A (D)					

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit	Camera adapters
	FP-C10 A (F) FP-C10 A (G) FP-C10 A (H) FP-C10 A (L) FP-C10 A (R) FP-C10 A (S) FP-C10 A (T) FP-C10 A (V) FP-C10 A (W) Z-ONE C (M) Z-ONE C (R) Z-ONE C (F) Z-ONE C HV-C20 HV-C20M Z-ONE-D Z-ONE-D (A) Z-ONE-D (B) Z-ONE-D (C) Z-ONE.DA (1) V-21 (1) V-21W (1) V-35 (1) DK-H31 (1) V-35W (1)					
Matsushita	WV-F700 WV-F700A WV-F700SHE WV-F700ASHE WV-F700BHE WV-F700ABHE WV-F700MHE WV-F350 WV-F350HE WV-F350E WV-F350AE WV-F350DE WV-F350ADE WV-F500HE (*) WV-F-565HE AW-F575HE AW-E600 AW-E800 AW-E800A AW-E650 AW-E655 AW-E750 AW-E860L AK-HC910L AK-HC1500G	WV-VF65BE WV-VF40E WV-VF39E WV-VF65BE (*) WV-VF40E (*) WV-VF42E WV-VF65B AW-VF80	WV-RC700/B WV-RC700/G WV-RC700A/B WV-RC700A/G WV-RC36/B WV-RC36/G WV-RC37/B WV-RC37/G WV-CB700E WV-CB700AE WV-CB700E (*) WV-CB700AE (*) WV-RC700/B (*) WV-RC700/G (*) WV-RC700A/B (*) WV-RC700A/G (*) WV-RC550/G WV-RC550/B WV-RC700A WV-CB700A WV-RC550 WV-CB550 AW-RP501 AW-RP505 AK-HRP900 AK-HRP150	—	—	WV-AD700SE WV-AD700ASE WV-AD700ME WV-AD250E WV-AD500E (*) AW-AD500AE AW-AD700BSE

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit	Camera adapters
JVC	KY-35E	VF-P315E	RM-P350EG	—	—	KA-35E
	KY-27ECH	VF-P550E	RM-P200EG			KA-B35U
	KY-19ECH	VF-P10E	RM-P300EG			KA-M35U
	KY-17FITECH	VP-P115E	RM-LP80E			KA-P35U
	KY-17BECH	VF-P400E	RM-LP821E			KA-27E
	KY-F30FITE	VP-P550BE	RM-LP35U			KA-20E
	KY-F30BE	VF-P116E	RM-LP37U			KA-P27U
	KY-F560E	VF-P116WE ⁽¹⁾	RM-P270EG			KA-P20U
	KY-27CECH	VF-P550WE ⁽¹⁾	RM-P210E			KA-B27E
	KH-100U					KA-B20E
	KY-D29ECH					KA-M20E
	KY-D29WECH ⁽¹⁾					KA-M27E
Olympus	MAJ-387N		OTV-SX 2			
	MAJ-387I		OTV-S5 OTV-S6			
	Camera OTV-SX					

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

⁽¹⁾ Models exempted under the condition that the corresponding triax system or triax-adaptor is not sold on the EC market.'

COUNCIL REGULATION (EC) No 1910/2006

of 19 December 2006

imposing a definitive anti-dumping duty on imports of television camera systems originating in Japan following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 384/96

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (the 'basic Regulation') ⁽¹⁾ and in particular Article 11(2) thereof,

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

Whereas:

applicant'). Grass Valley is the resulting company following the acquisition of Philips Digital Video Systems by Thomson Multimedia, owner of Thomson Broadcast Systems. The request for an expiry review was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Community industry.

- (5) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review pursuant to Articles 11(2) of the basic Regulation, the Commission initiated this review on 29 September 2005 ⁽⁵⁾.

1. PROCEDURE

1.1. Measures in force

- (1) The Council, by Regulation (EC) No 1015/94 ⁽²⁾, imposed a definitive anti-dumping duty on imports of television camera systems ('TCS') originating in Japan ('the original investigation').
- (2) In September 2000, the Council, by Regulation (EC) No 2042/2000 ⁽³⁾, confirmed the definitive anti-dumping duties imposed by Regulation (EC) No 1015/94 pursuant to Article 11(2) of the basic Regulation ('the previous review investigation').

1.2. Request for a review

- (3) Following the publication of a notice of impending expiry of the anti-dumping measures in force on television camera systems ('TCS') originating in Japan ⁽⁴⁾, the Commission received, on 28 June 2005, a request to review these measures pursuant to Article 11(2) of the basic Regulation.
- (4) This request was lodged by Grass Valley Nederland BV, a Community producer representing more than 60 % of the total Community production of TCS ('the

1.3. Parallel investigation

- (6) On 18 May 2006, the Commission initiated a new anti-dumping proceeding concerning imports of certain camera systems originating in Japan, and an interim review of the anti-dumping measures on imports of television camera systems originating in Japan ⁽⁶⁾. The scope of the new anti-dumping proceeding includes television camera systems covered by the measures in force mentioned in recital (2). Should it be determined that measures are to be imposed on certain camera systems originating in Japan, and thus cover the television camera systems subject to measures by the present Regulation, the continued imposition of measures imposed by the present Regulation will no longer be appropriate, and would have to be amended or repealed accordingly.

1.4. Current Investigation

1.4.1. Procedure

- (7) The Commission officially advised the exporting producers, users/importers, raw material producers known to be concerned, the representatives of the exporting country and the Community producers of the initiation of the expiry review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

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

⁽²⁾ OJ L 111, 30.4.1994, p. 106. Regulation as last amended by Regulation (EC) No 1754/2004 (OJ L 313, 12.10.2004, p. 1).

⁽³⁾ OJ L 244, 29.9.2000, p. 38. Regulation as last amended by Regulation (EC) No 1909/2006 (OJ L 365, 21.12.2006, p. 1).

⁽⁴⁾ OJ C 309, 15.12.2004, p. 2.

⁽⁵⁾ OJ C 239, 29.9.2005, p. 9.

⁽⁶⁾ OJ C 117, 18.5.2006, p. 8.

(8) Questionnaires were sent to the applicant Community producer, two other known Community producers, 25 users, nine raw material producers, and to the five known exporting producers in Japan. Replies were received from one Community producer, one Japanese exporting producer and its related company in the Community, four users/importers and one raw material supplier.

(9) The Commission sought and verified all the information deemed necessary for its investigation, and carried out verification visits at the premises of the following companies:

Community producer:

— Grass Valley Netherlands BV, Breda (the Netherlands)

Other producers in the Community:

— Ikegami Electronics (Europe) GmbH — UK Branch, Sunbury on Thames (United Kingdom)

Producer in the exporting country:

— Ikegami Tsushinki Co., Ltd, Tokyo

(10) The analysis focuses mainly on standard definition (SD) because SD TCS constitutes the vast majority of the products subject to the measures. It is also noted that a HD TCS, with a similar performance and quality as an SD TCS having a S/N ratio of 62dB (therefore subject to the current measures), may present a S/N ratio of less than 55dB, and consequently not be covered by the measures. This was also confirmed by the Community industry. One interested party, which did not cooperate in the present investigation, requested that the product definition of this review be aligned with the one of the new investigation referred to in recital (6). However, the current review cannot change the product definition and it is limited to determine whether the measures in force should be maintained or repealed. Therefore the argument had to be rejected.

1.4.2. Investigation period

(11) The investigation regarding the likelihood of a continuation or recurrence of dumping and injury covered the period from 1 October 2004 to 30 September 2005 ('investigation period' or 'IP'). The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period

from 1st January 2002 up to the end of the IP ('period considered', injury investigation period or 'IIP').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(12) The product concerned is the same as that in the original investigations which led to the imposition of measures currently in force, i.e. television camera systems.

(13) As set out in Council Regulation No 1015/94, TCS may consist of a combination of the following parts, imported either together or separately:

(a) a camera head with three or more sensors (12 mm or more charge-coupled device pick-up devices) with more than 400 000 pixels each, which can be connected to a rear adaptor, and having a specification of the signal to noise ratio of 55dB or more at normal gain; either in one piece with the camera head and the adaptor in one housing, or separate;

(b) a viewfinder (diagonal of 38 mm or more);

(c) a base station or camera control unit (CCU) connected to the camera by a cable;

(d) an operational control panel (OCP) for camera control (i.e. for colour adjustment lens opening or iris) of single cameras;

(e) a master control panel (MCP) or master set-up unit (MSU) with selected camera indication, for the overview and for adjustment of several remote cameras.

(14) The products covered by this review are currently classifiable within CN codes ex 8525 30 90, ex 8537 10 91, ex 8537 10 99, ex 8529 90 81, ex 8529 90 95, ex 8543 89 97, ex 8528 21 14, ex 8528 21 16 and ex 8528 21 90.

(15) Products not covered by this proceeding are:

(a) lenses;

(b) video tape recorders;

(c) camera heads with the recording unit in the same, inseparable housing;

(d) professional camera systems which cannot be used for broadcast purposes;

(e) Professional camera systems listed in the Annex.

2.2. Like product

- (16) As established in the previous investigations mentioned in recitals (1) and (2), the current investigation confirmed that the product concerned manufactured by Japanese exporting producers and sold in the Japanese market and in the Community and the product manufactured and sold by the applicant Community producer on the Community market use the same basic technology and both conform with world-wide applicable industry standards. These products also have the same applications and uses, they consequently have similar physical and technical characteristics, are interchangeable and competing with each other. Therefore, these products are alike within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

3.1. Preliminary remarks

- (17) As in the previous review investigation, the level of cooperation of the Japanese exporting producers in the present proceeding was particularly low. Only one producer out of five cooperated. Out of the remaining four producers known to the Commission, none submitted a questionnaire reply although, according to facts available, and in particular the database maintained by the Commission under Article 14(6) of the basic Regulation ('the 14(6) database'), at least three of them likely have exported TCS to the Community during the IP.
- (18) Only one exporting producer cooperated which did not, however, export the product concerned to the Community. Given the low degree of cooperation, no reliable information on imports of the product concerned to the Community during the IP could be gathered directly from the exporting producers. Moreover, in line with previous findings, the statistical information available from Eurostat appeared not to be reliable since the CN codes under which the product concerned is classifiable also record imports of other products, without any possibility of distinction. Therefore, Eurostat information had also to be disregarded to determine whether there were imports of TCS from Japan and in which quantities and values. Under these circumstances and in accordance with Article 18 of the basic Regulation, the Commission

resorted to the use of the facts available, i.e. information contained in the 14(6) database and the request for the initiation of the review. On this basis, the volumes and values of TCS originating in Japan imported in the Community during the period considered were best estimated.

3.2. Dumping of imports during the investigation period

- (19) Given the insufficient cooperation/non-cooperation by exporting producers in Japan, and the fact that the sole cooperating exporting producer in Japan did not export to the Community during the IP, the Commission sought information regarding the continuation of dumping from other sources, and in particular in the information submitted by the applicant and in the 14(6) database, in accordance with Article 18 of the basic Regulation.
- (20) The 14(6) database shows that there were significant imports of the product concerned during the IP, and in particular of around 10 television camera heads ('TCH'), which is the essential and most valuable part of a system. It is recalled that given the low cooperation and the fact that the sole cooperating exporting producer did not export to the Community during the IP, no formal dumping calculation could be processed on the product concerned.
- (21) Given the above, and in accordance with Article 18 of the basic Regulation, the Commission had to rely on the facts available, i.e. the evidence provided in the applicant's request, which showed that the dumping level for two models of the product concerned after payment of the duties is significant, reaching for one model more than 10 %.
- (22) As a conclusion, it appears from the evidence available that there is a likelihood of continuation of dumping practices by the Japanese exporting producers.

3.3. Development of imports should measures be repealed

3.3.1. Preliminary remarks

- (23) Worldwide producers of TCS are located only in Japan and in the EU. Therefore, the sales worldwide are divided among these producers. There are at least two known Community producers, out of which one is related to Japanese exporting producers, which produce for the Community market. There are five known Japanese exporting producers, which produce and sell worldwide.

(24) It is recalled that measures have been in force since 1994. Moreover, in 1999, the Commission reached the conclusion that the exporting producers were absorbing the measures and therefore decided to increase their anti-dumping duties to very significant levels for the concerned exporting producers (up to 200,3 %). Finally, in 2000, an expiry review of the measures in force showed that measures should be extended for another period of five years given the likelihood of continuation and recurrence of dumping and injury.

3.3.2. *Relationship between prices in the Community and the exporting country*

(25) Given the low cooperation from the exporting producers, the only available sources of information for the prices of the product concerned in Japan were the sales data from the sole cooperating exporting producer (Ikegami), the information gathered from the applicant and the information in the request for this investigation.

(26) As mentioned in recitals (20) above, the TCH is the central and most valuable part of a television camera system in terms of value, and it was therefore considered appropriate to assess the relationship between prices in Japan and prices in the Community on this basis.

(27) With the information in the request and the information gathered during the verification visits, it appears that the prices charged by Community producers in the Community are higher than the ones prevailing in the Japanese domestic market.

(28) However, it has been shown above that despite this fact, Japanese companies are willing already today to export to the Community at prices without the anti-dumping duties which are by far lower than the ones prevailing in the Community and in their domestic market. The same is true for their exports to third countries.

(29) On this basis, it can be expected that, should measures be allowed to lapse, imports would likely enter the Community at prices which would very significantly be dumped and would undercut the Community prices, since there is no reason to believe that Japanese exporting producers would modify their pricing behaviour in this case. Moreover, the high price level on the Community market also constitutes an incentive for the Japanese exporting producers to shift parts of the domestic sales to the EU.

(30) Finally, since the measures in force are high (from 52,7 to 200,3 %), the Japanese exporting producers would have a significant margin of manoeuvre in setting the new prices should measures be allowed to lapse and should they decide to increase their export prices. In all cases, as shown before, any increase of prices below the existing measures in force would undercut the Community prices.

3.3.3. *Relationship between export prices from Japan to third countries and prices in the exporting country*

(31) Given the low cooperation from the exporting producers, an analysis was carried out regarding the prices from Japan to third countries, of the sole cooperating exporting producer compared to those at which products were sold in Japan. In this respect, the vast majority of the sales to third countries were taken into account.

(32) In order to carry out a proper comparison between such prices, adjustments were made when warranted for level of trade, transport, insurance, and credit costs. All elements of the systems, and not only the camera heads, were included in the comparison, since detailed information was available.

(33) The comparison showed that the company was selling to third countries at significantly lower prices than to its domestic market.

(34) With the information available, it can be considered that the company sells its products to third countries very likely at dumped prices (around 20 %). This confirms the *prima facie* evidence contained in the request that exporting producers sell at significantly dumped prices to other third countries.

(35) There is no evidence available indicating that other Japanese exporting producers do not follow the same pricing policy and are not selling at likely dumped prices to other third countries.

(36) On this basis, it is concluded that Japanese exporting producers have sold for export to third countries at prices significantly lower than prices on their domestic market and that these export prices were very likely at dumped levels during the IP, and there is no evidence that this practice will change.

3.3.4. Relationship between export prices from Japan to third countries and the price level in the Community

- (37) According to facts available, i.e. the request and the information given by the sole cooperating exporting producer, prices at which the exporting producers sell the product concerned to third countries are much lower than those prevailing in the Community. The difference can reach 220 % depending on the market. Thus, should measures be allowed to lapse, there would be a significant incentive for the Japanese exporting producers to redirect parts of their exports to third countries to the Community market.

- (38) It is also noted that the Community is the sole country where anti-dumping measures are in force against the product concerned. There is no evidence that producers would adopt a different pricing policy than the one followed for exports to third countries should measures be allowed to lapse.

3.3.5. Unused capacities and stocks

- (39) The applicant argued that, due to the nature of the product, capacity is flexible, and that Japanese exporting producers could expand theirs within a very short period of time. This has been confirmed by the on-spot verification at the sole cooperating exporting producer in Japan.

- (40) Indeed, the production process needs manpower, but is not bottlenecked by a particular production process or machine. Since the production line is mainly manual, it is enough to increase the number of shifts and the personnel employed in order to increase capacity. The most important bottleneck of the capacity increase is indeed the time it takes to train new employees to assemble and manufacture TCS. The sole possible mechanical bottleneck which would need a high investment to increase production is the machine producing the optical block. However, no evidence was found that this was, given the current production levels, a likely limiting factor of a possible production capacity increase. Furthermore, since the company was not fully using all possible shifts, it is concluded that production capacity could be quickly and significantly increased. Moreover, no evidence was submitted that the cost related to such an increase of the capacity would be high with regard to the value of the products produced.

- (41) This increase can be very significant given the low 'entry ticket' to be paid by the Japanese exporting producers to

sell increased quantities in the Community (existing distribution channels and low level of investment to increase capacity).

- (42) Given the above, and given the fact that there is no evidence showing that this situation is not the same for all other exporting producers, it can be concluded that there is a likelihood that production capacity could increase significantly within a short period of time, should producers in Japan need to do so.

- (43) On the basis of the above, it can be concluded that there is a likelihood of increased imports into the EC should measures be allowed to lapse. The above has to be seen in the light of the attractive prices in the Community with regard to third countries as shown above, already existing channels of distribution, and of the fact that increasing capacity could be undertaken at a relatively low cost (training of new specialised workers).

3.4. Conclusion

- (44) Given the above described specificities of the market, i.e. that prices in the Community are higher than in third countries and in the Japanese domestic market, there are strong incentives to redirect parts of the sales to the Community market, likely at low prices to regain lost market shares. Moreover, as the production capacity is quickly expandable, it is very likely that imports of the product concerned would resume in significant quantities. Since there is no evidence that Japanese exporting producers would change their pricing behaviour in order to increase prices should measures be allowed to lapse, it is also very likely that these increased imports will be made at dumped prices.

- (45) On the basis of the above, it is concluded that there is a likelihood of recurrence of dumping of the product concerned by Japanese exporting producers should measures be allowed to lapse, and therefore that the measures in force should be maintained.

4. DEFINITION OF THE COMMUNITY INDUSTRY

- (46) In 2001, Philips Digital Video Systems ('Philips DVS') was taken over by Thomson Multimedia, owner of Thomson Broadcast Systems ('TBS'), another Community producer of TCS, and the merged Philips DVS/TBS entity became Grass Valley Nederland B.V., the applicant.

(47) One exporting producer argued that since five years ago, virtually all television camera systems sold by its related company in the Community were manufactured by that company in the Community. It was further argued that since this manufacturing facility did not only supply the EC market but the entire world, any decision regarding the existing anti-dumping duties was not likely to affect it.

(48) Since this exporting producer did not provide any further information, in particular a reply to the questionnaires intended for other Community producers, it was not possible to investigate in detail the precise nature of its activities, including in the Community.

(49) Another economic operator producing TCS in the Community and related to a Japanese exporting producer cooperated in this investigation and opposed the current measures. This economic operator argued that imports of TCS from Japan were made on a sporadic basis and merely to complement their operations in the EC. The verification on-spot revealed that only one particular model was assembled in those Community facilities with parts originating in Japan and the Community although, at the time of verification, no production of the CCD (charge-coupled device) block, the most important part of a camera head, was actually taking place. In addition, the investigation revealed that there are no other reasons for the production of such model to take place in the Community other than the existence of measures on TCS.

(50) In any event, the present investigation confirmed that the applicant represented more than 60 % of the Community production of television camera systems. It therefore constitutes the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and is hereinafter referred to as the 'Community industry'.

5. SITUATION ON THE COMMUNITY MARKET

5.1. Preliminary remarks

(51) For the reasons explained in recitals (19) to (20) above, the analysis with regard to the situation on the Community market was based on collected data relating to television camera heads ('TCH').

(52) As mentioned above, it was not possible to obtain data from one Japanese exporting producer which allegedly

has manufacturing facilities in the Community market. As mentioned above, those Japanese parties which actually exported the product concerned to the Community did not cooperate. Consequently, in particular with regard to consumption, the Commission made use of facts available, in accordance with Article 18 of the basic Regulation.

(53) Given the fact that data regarding sales and production was available from only one or two interested parties, and given the business sensitivity of such information, it is considered appropriate not to disclose absolute figures. They have therefore been replaced by the symbol '—' and indexes were provided.

5.1.1. Consumption in the Community market

(54) Apparent Community consumption of TCHs was assessed on the basis of the volume of sales in the Community as provided by the Community industry, the sales volume of Ikegami Electronics (Europe) GmbH, statistics of imports of TCHs from Japan obtained from the 14(6) database, as well as information on purchases provided by one user of TCS. Due to the non-cooperation by one Japanese exporting producer which allegedly also produces TCS in the Community, it is likely that Community consumption is slightly underestimated although the overall trends and conclusions drawn would not be significantly altered.

Table 1

Community consumption of TCHs

	2002	2003	2004	IP
Units	—	—	—	—
Index	100	104	123	103

Source: Verified questionnaire replies and 14(6) database

(55) Community consumption increased by 3 % between 2002 and the IP. However, there was a significant increase in 2004, when imports reached their higher level. In the IP, Community consumption decreased, by around 15 %, when compared with 2004.

5.1.2. Current imports from the country concerned

(i) Import volume and market share of the imports concerned in the IIP

- (56) During the period considered, the import volume of TCHs from Japan remained relatively low. However, they have increased almost tenfold between 2002 and 2004, reaching around 30 units. In the IP, imports decreased when compared with 2004 but remained significantly above those in 2002. In overall terms, during the period considered imports increased almost threefold. The Community industry argued that the volume of imports was underestimated since, on the basis the market information it had, deliveries in the EC by Japanese producers were significantly more than what could be allegedly produced in the Community by those companies. It was further argued that measures were probably being circumvented through imports of camera parts. However, this information provided was not in line with the findings of the investigation i.e. the verification visits and information received from independent users. In addition, the scope of the present review is not such as to determine whether the measures in force are being circumvented, although it is recognised that circumvention practices can have an impact on the situation of the Community industry.
- (57) The market share of imports increased constantly until 2004, when they reached their highest level. Despite a significant decrease in the IP, less than half of the 2004 level, imports have nevertheless increased their market over the period considered.

Table 2

Imports of TCHs from Japan and market share

	2002	2003	2004	IP
Import volume	—	—	—	—
Index	100	167	1 000	300
Market share	—	—	—	—
Index	100	161	816	291

Source: Verified questionnaire replies and 14(6) database

(ii) Price evolution and price behaviour of the imports of the product concerned

- (58) In the absence of cooperation, no reliable information was available with regard to price levels of imports of TCHs. Indeed, Japanese exporting producers make their sales of the product concerned exclusively to related

importers in the Community. Therefore, the price levels available from the 14(6) database are prices between related parties and they cannot consequently be considered as reliable. This is particularly so given the fact that due to the measures in force, the companies may decide to allocate profits to the Community entities.

- (59) Thus, no conclusion could be drawn with regard to the price evolution and price behaviour of the imports of the product concerned.

5.1.3. Economic situation of the Community industry

- (60) For the sake of clarity it is noted that the Community industry has supplied information in its questionnaire reply, with regard to TCS rather than to TCHs only. This was not considered a problem given the fact that each TCS will typically have a TCH. Therefore, for the sake of examining trends, and in the absence of more detailed information with regard to the activities of the Japanese exporting producers in the Community, the economic situation of the Community industry was done on the basis of data pertaining to TCS.

(i) Output, production capacity and capacity utilisation

- (61) Total production of TCS by the Community industry has increased slightly over the period considered. After a decrease of 8 % in 2003, production increased significantly in 2004, i.e. by around 35 %. During the IP, however, production decreased by around 16 % when compared with 2004, although to a level which still represented an increase of 5 % when compared with 2002.

Table 4

Production volume

	2002	2003	2004	IP
Production	—	—	—	—
Index	100	92	124	105

Source: Verified questionnaire reply

- (62) Production capacity of the Community industry remained stable until 2004. However, in the IP a reduction of 14 % occurred following a re-organization of the company and allowed the company to adapt its production capacity to existing demand. In fact, as described below, such reduction in capacity was accompanied by stable capacity utilisation rates between 2004 and the IP.

- (63) With the increased production, and the adjustment in production capacity, capacity utilisation increased over the period considered. Overall, the capacity utilisation rate has followed similar trends as those of production, increasing between 2002 and 2004, with a nadir in 2003. In the IP, capacity utilisation remained stable in comparison with 2004 but was still around 20 % above the 2002 level.

Table 5

Production capacity and capacity utilisation

	2002	2003	2004	IP
Production capacity	—	—	—	—
Index	100	100	100	86
Capacity utilisation	—	—	—	—
Index	100	92	124	122

Source: Verified questionnaire reply

(ii) Stocks

- (64) Stocks decreased significantly in 2003 (– 17 %) but increased in the following year, while still remaining 11 % below 2002 levels. The abnormal increase of inventories in the IP is explained by the fact that the IP ended before the end of the financial year when a number of orders was still to be delivered.

Table 6

Stock volume

	2002	2003	2004	IP
Stock	—	—	—	—
Index	100	83	89	172

Source: Verified questionnaire reply

(iii) Sales volume, prices and market share

- (65) Sales by the Community industry on the Community market increased between 2002 and 2004 by 10 %, without, however, matching the expansion of the Community consumption, which substantially increased, i.e. by 23 % during the same period. This led to an overall decrease of the Community industry's market share of more than 20 percentage points over the period considered, to the benefit of imports from Japan

and other operators in the Community. In the IP, sales have decreased significantly compared with 2004 levels, which led to a further reduction in the Community industry market share.

- (66) However, it should be noted that the figures and trends observed with regard to the Community industry's market share had to be based on facts available in particular because the one other producer in the Community did not deliver his sales and production figures.

- (67) As far as average sales prices are concerned, over the period considered these have decreased by 3 %, although between 2002 and 2003 there was an increase of 7 %. However, the relatively small decrease of prices over the period considered hides a change in the product mix, as the Community industry introduced new products with higher (and more costly) configurations.

Table 7

Sales volume, prices and market share

	2002	2003	2004	IP
Sales volume (units)	—	—	—	—
Index	100	103	110	79
Avg. prices (EUR/unit)	—	—	—	—
Index	100	107	98	97
Market share	—	—	—	—
Index	100	99	89	76

Source: Verified questionnaire reply

(iv) Employment, productivity and wages

- (68) Over the period considered, employment decreased (over 24 %) which, with the increase in production, resulted in a significant increase of productivity (37 %). It should be noted that the decrease in employment was accompanied by an increasing resort to workers under temporary/flexible contracts, therefore reducing the company's fixed costs.

- (69) Indeed, over the period considered the Community industry managed to significantly reduce its labour costs (– 14 %). As a consequence, the Community industry was able to reduce the proportion of labour costs in the total cost of production by several percentage points. This reveals a clear attempt by the Community industry to adapt its production structure and to reduce its fixed costs.

Table 8

Employment, productivity and wages

	2002	2003	2004	IP
Employment	—	—	—	—
Index	100	102	87	76
Productivity (units per employee)	—	—	—	—
Index	100	90	142	137
Labour costs (000 EUR)	—	—	—	—
Index	100	97	103	86

Source: Verified questionnaire reply

(v) Profits

- (70) It should be noted that profitability of the Community industry was still negative during the investigation period of the last expiry review, and which led to the extension of the anti-dumping measures in force at the time. This situation has been reversed now and between 2002 and 2004 the Community industry presented positive profitability levels.

- (71) Indeed, profitability of the Community industry increased until 2004, even if higher profits (above 10 %) are normally expected in order to enable the industry to keep pace with requirements of technological developments. Thus, even in 2003 and 2004, the years with the highest profit margins, the levels were not sufficient to guarantee that the Community industry could continue to invest substantial volumes in new developments, as it is expected in this sector.

- (72) In the IP the situation with regard to profitability deteriorated considerably, reaching significant losses. This can be explained by two factors: on one side, the significant decrease of sales in the Community during the IP caused an increase in average fixed costs with the consequent negative impact on profitability. On the other side, the Community industry was unable to pass-on an increase in costs of certain raw materials as well as the additional R&D and selling expenses, arising from a wider network of sales offices, aimed at providing better services to its customers. It should also be noted, as described above under recital (67), that the small decrease of the average sales prices between 2004 and the IP, hides a change in the product mix, as the Community industry introduced new products with higher (and more costly) configurations, but was prevented from increasing prices proportionally.

Table 9

Profitability

	2002	2003	2004	IP
Profitability (%)	—	—	—	—
Index	100	176	251	– 321

Source: Verified questionnaire reply

(vi) Investments, return on investment and ability to raise capital

- (73) Investments have remained at high levels although decreased by 13 % in 2003. This was however recovered in the following year by an almost threefold increase, which was due to the Community industry's re-laying out and streamlining of production, as well as the continuous high R&D investments which are required in this industry.
- (74) Return on investments, expressed as the profit in percentage of the net book value of investments, broadly followed the trend in profitability described above.

Table 10

Investments and return on investment (RoI)

	2002	2003	2004	IP
Investments (000 EUR)	—	—	—	—
Index	100	87	237	148
RoI	—	—	—	—
Index	100	143	182	– 116

Source: Verified questionnaire reply

- (75) The Community industry was not found to be experiencing difficulties in raising capital during the period considered.

(vii) Cash flow

- (76) Cash flow increased significantly until 2004 (39 %). This positive trend indicates that recovery of the industry was taking place. It should be noted that in 2004, cash flow represented only around 10 % of the total sales made in the Community which cannot be considered as excessive. However, during the IP cash flow was significantly affected by the negative profitability levels.

Table 11

Cash flow

	2002	2003	2004	IP
Cash flow (000 EUR)	—	—	—	—
Index	100	99	139	- 70

Source: Verified questionnaire reply

(viii) Growth

- (77) Between 2002 and the IP, the Community consumption increased by 3 %, while the volume of sales of the Community industry on the Community market decreased by 21 %. The Community industry lost more than 20 percentage points of market share, whereas dumped imports and other Community producers increased theirs.

- (78) In recent years, the TCS market has been characterized by a shift from standard definition TCS to high definition. It is expected that this trend will intensify in the future. However, as high definition transmission has not yet become widespread, a significant number of broadcasters, in particular the smaller or regional ones, continue to buy standard definition TCS, attracted by the relatively lower prices. Indeed, the Community industry was not able to benefit from the growth in the market, as revealed by its loss of market share.

- (79) In addition, production and sales of standard definition TCS continue to constitute an important feature for any producer of TCS not least because, due to high capital intensive nature of this industry, fixed costs tend to be naturally high. Therefore, it continues to be important that the Community industry benefits from the wider sales volumes offered by sales of standard definition TCS, in order to spread those fixed costs.

(ix) Magnitude of the dumping margin

- (80) The analysis with regard to the magnitude of dumping must take into account the fact that there are measures in force in order to eliminate injurious dumping. As determined above in recital (22) above, the information available indicates that the Japanese exporting producers continue to sell to the Community at dumped prices. Indeed, the margin of dumping found is significant and its impact on the situation of the Community industry cannot be considered negligible, in particular when associated with the significant volumes that could also arise.

(x) Recovery from the effects of past dumping

- (81) The situation of the Community industry improved to a certain extent during the period considered, since the extension of measures in 2000 through the previous expiry review. However, the indicators set out above also show that the Community industry is still fragile and vulnerable.

5.1.4. Effects of other factors on the situation of the Community industry

(i) Export activity of the Community industry

- (82) The investigation showed that the export activity of the Community industry developed as follows:

Table 12

Community industry exports

	2002	2003	2004	IP
Volume (unit)	—	—	—	—
Index	100	117	193	148
Value (000' EUR)	—	—	—	—
Index	100	126	146	93
Avg. price (EUR/unit)	—	—	—	—
Index	100	107	75	63

Source: Verified questionnaire reply

- (83) Quantities exported by the Community industry grew significantly from 2002 to 2004, but decreased by more than 20 % in the IP. However, the sales level during the IP represents still almost 50 % more than the sales level at the beginning of the period considered. This overall positive trend was concomitant to an accentuated decrease in average prices, explained by the strong competition at extremely low prices faced in third country markets (see recital (35)).

- (84) Indeed, the investigation showed that the Community industry was faced with competition at extremely low prices in third countries, in particular in emerging markets such as Brazil and China, and that in order to be able to maintain a significant level of production and sales, it has been forced to substantially lower its prices to third countries. Naturally, this had negative consequences on its overall profitability.

(ii) Other producers in the Community

(85) One factor which could explain the fact that the Community industry has not yet fully recovered its economic situation, taking into account in particular the loss of market share and the negative profitability level during the IP, is the setting up by certain Japanese exporting producers of operations in the Community which allegedly also produce TCS to be sold in the Community market. Indeed, other producers in the Community have gained significant market share during the period concerned (see recital (65) above). However, given the non-cooperation from one Japanese producer allegedly producing in the Community, it cannot be excluded that whatever gain in market share by that company is the result not from better competitive practices but from a pure transfer of the dumping practices into the Community via the assembly of the product in the Community, therefore undermining the effects of the measures.

(86) In this regard it should be noted that at least in one case, the investigation found no other reason for such operations in the Community other than the existence of measures and the need to avoid them (see recital (49)).

5.1.5. Conclusion on the situation of the Community industry

(87) The current state of the Community industry should be seen in light of the fact that measures are in place.

(88) Sales in the Community market, production volume and capacity utilisation rate have increased significantly until 2004. Profitability and productivity have also improved until 2004, while the labour costs have been reduced. Cash flow, return on investment and stocks also had positive trends until 2004.

(89) However, over the period considered the market share of the Community industry followed a negative trend, with a loss of more than 20 percentage points. Since 2000, there was an increase of activity of other economic operators in the Community which allegedly also produce TCS. This, together with imports from Japan at dumped prices, has prevented the Community industry from reflecting on its sales prices increased costs incurred with R&D, production and sales of TCS, leading it to negative profitability in the IP.

(90) The Community industry's export performance was also affected by dumped prices in those markets, and forced it to reduce significantly (more than 30 %) its average prices to third countries with the consequent negative effects on the industry's overall profitability. This is a

good indication of how the Community market of TCS could evolve in the absence of measures.

(91) Overall, it has to be concluded that the state of the industry has generally improved until 2004 but certain indicators (e.g. sales volume in the Community, profitability, return on investment and cash flow) have inverted their positive developments in the IP. It can thus be concluded that the Community industry is in an improved situation when compared with the previous review investigation, and it has shown to be viable and competitive as it has significantly lowered its fixed costs and improved its productivity. However, it was still not able to fully recover and remains thus very fragile and vulnerable, as it can be concluded from the evolution in the IP.

6. LIKELIHOOD OF RECURRENCE OF INJURY

6.1. Impact of the projected volume and price effects in case of repeal of measures on the state of the Community industry

(92) It is recalled that in recital (43) it was concluded that the expiry of the measures would be likely to lead to an increase of dumped exports from Japan to the Community.

(93) When examining the likely impact of additional low-priced imports on the situation of the Community industry it is noted that the arrival of significant quantities of dumped imports would immediately cause a severe price depression on the Community market as the Community industry would be likely to first try to maintain its market share and its production level, as it could be observed during the period considered with regard to sales to third countries. Should this happen, the Community industry's loss of profitability would be significant and its financial situation would deteriorate.

(94) It is recalled that in the market of TCS, the survival of a producer depends also on its ability to keep pace with new technological developments and thus to invest appropriately in R&D, state-of-the-art production facilities and training of employees. Therefore, it is vital that the Community industry reaches a certain profitability level which also has to be achieved by keeping the sales price at a level that allows to cover these costs. It is clear that under a scenario of a price depression caused by likely dumped imports from Japan, the sole remaining Community producer not related to Japanese exporting producers would suffer material injury caused by the dumped imports and most likely, given the very low prices practiced by the Japanese exporting producers on sales to third countries, not survive this situation.

- (95) Indeed, according to the 14(6) database data, the volume of dumped imports increased more than threefold until 2004 and more than 50 % over the period considered. As pointed out above, it is likely that without anti-dumping measures in place further increased volumes would be shipped to the Community market at very low prices, significantly undercutting the Community industry prices.
- (96) In fact, should the Japanese exporting producers practice export prices to the Community at levels similar to those they practiced to third countries, as it is reasonable to expect, the Community industry's prices would be undercut by around 30 %. Such pricing behaviour, coupled with the ability of the Japanese exporters to deliver significant quantities to the Community market, would in all likelihood depress prices in the Community market with the consequent negative impact in the economic performance of the Community industry.

6.2. Conclusion on the likelihood of recurrence of injury

- (97) Following the above, it is concluded that the repeal of the measures would in all likelihood result in the recurrence of material injury to the Community industry.

7. COMMUNITY INTEREST

7.1. Introduction

- (98) In accordance with Article 21 of the basic Regulation it was examined whether a prolongation of the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of Community interest was based on an appreciation of all the various interests involved, i.e. those of the Community industry and other Community producers, the users and raw material suppliers of the product under consideration.
- (99) It should be recalled that, in the previous investigations, the adoption of measures and their subsequent extension was consistently found not to be against the interest of the Community. Furthermore, the present investigation is a second expiry review, thus analysing a situation in which anti-dumping measures are already in force since 1994.
- (100) On this basis it was examined whether, despite the conclusion that there exists a likelihood of continuation and/or recurrence of dumping and recurrence of injury,

there are compelling reasons which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.

7.2. Interests of the Community industry

- (101) The Community industry is the only producer of TCS not related to Japanese exporting producers. It has proven to be a viable industry, able to adapt to the changing conditions on the market. This was confirmed by its efforts to streamline production, reduce costs and increase productivity, as well as by its continued investments into the production of technologically more advanced products.
- (102) The improvement of its economic situation during the period considered indicates that the Community industry has managed to benefit from the continued imposition of measures and effective competition has been restored. Despite improvements in its profitability, it has yet to reach a profit level that can be expected in this type of technological product. However, as described above, it can be concluded that, without the continuation of anti-dumping measures, the situation of the Community industry will in all likelihood severely deteriorate, with a distinct possibility of closure as described under recital (93). This would jeopardize over 100 jobs directly linked to the product concerned.
- (103) Also, production in the Community of high tech products such as TCS, and in particular R&D developments associated with such production, have important spill-over effects. This is particularly the case of production of the CCD block, since its components are used as well for other applications such as security systems, medical, industrial and telecommunications applications. Furthermore, the existence of a Community industry manufacturing TCS has an impact on the entire television industry, i.e. from the development and manufacturing of broadcast equipment to the production of television sets and recorders, but it may also have an influence on the standards set for the Community television sector. Thus, it is also considered that if this high-technology industry disappears, there would be a negative impact on the television industry in general.
- (104) Given the above, it was concluded that to prolong the existing measures in order to ward off the adverse effects of dumped imports which could endanger the existence of such Community industry and consequently a number of specialized jobs, is necessary.

7.3. Interests of the other Community producers

- (105) With regard to the interests of other Community producers of TCS, it should be noted that only one co-operated in this investigation. This producer, related to a Japanese exporting producer, opposed the continuation of measures but argued that the existence of measures gave it a competitive advantage vis-à-vis other Japanese exporting producers, which it would not want to surrender.
- (106) In the absence of cooperation from the other alleged Community producer it has to be concluded that the cooperating Community producer will not be negatively affected by the extension of the measures. Indeed, as well as after the prolongation of the measure in 2000, its investment in the Community is fostered with the extension of the measures in force.

7.4. Interests of users

- (107) The Commission also sent out questionnaires to 25 users of TCS. Only four users co-operated with the investigation. These users are licensed broadcasting companies which broadcast their own programs by using their own equipment. They purchased directly from the TCS producers, whether produced in the Community or in the exporting country, and are representative of the majority of TCS users.
- (108) One user argued that it had no plans to buy any significant number of TCS in the next five years and that therefore no effect on its business was expected should measures be extended.
- (109) Another user argued that it had plans to migrate to high definition products and that should measures be allowed to lapse, this would increase the number of suppliers in the Community and lead to changes in pricing and product innovation. It was also argued that a change of the source of the camera is not realistic because TCS are not a generic or commodity item.
- (110) A third user argued they were against the renewal of anti-dumping measures because this would lead to less competition and less models available. In addition, it was argued that there is not much flexibility to change in the short term from one producer to another.
- (111) A fourth user claimed it could not foresee the impact if measures were maintained.

- (112) It should be noted that at least two Japanese producers are now established in the Community and continue to compete with the Community industry. Indeed, certain users have continued to buy Japanese TCS, whether imported or produced in the Community. It cannot therefore be concluded that the anti-dumping measures in force have completely eliminated competition between different suppliers of TCS. It is true that imports of TCS from Japan have decreased since the imposition of anti-dumping measures but this is the result of the inability of the Japanese exporting producers to sell to the Community at non-dumped prices.
- (113) Regarding the possibility to change suppliers of TCS it should be noted that the objective of anti-dumping measures is not to force a change to a different supplier of TCS but to establish a level playing field through the elimination of unfair trade practices. In addition, should the Community industry of TCS disappear as a consequence of the elimination of the anti-dumping measures in force, this would undoubtedly lead to a reduction in competition and to the dependence of Community TCS users on Japanese technology. The latter aspect is particularly important as producers of TCS can play an important role in setting future broadcasting standards. The Community would undoubtedly be in a disadvantageous situation should it not have a sufficiently strong producer of this product.
- (114) In line with the findings of previous investigations, it was found that TCS are not a significant cost factor for the users since, in relation to their production of broadcast programs, they only accounted for a small proportion of their total costs. Indeed, camera systems covered by the anti-dumping measures represent only part of the overall equipment needed by a broadcasting company. Likewise, when looking at the total costs of a broadcasting company, and not only at the equipment, the cost of TCS subject to anti-dumping duties represents even a lower proportion since there are other more important costs such as program production, personnel, overheads, etc. which are well above the mere cost of a TCS.
- (115) In general terms, the investigation concluded that the effects on users are limited when compared to the size of the global turnover of broadcasting companies, i.e. the purchase of a TCS represents less than 0,2 % of the total turnover of broadcasting companies. In addition, nowadays the average life time of a TCS is estimated at around seven years, sometimes reaching ten years, which means that TCS continue to be far from a recurrent cost factor for the users.

- (116) Thus, it is concluded that since the measures have been in place for a certain period and would be maintained at the same level, their extension will not imply a deterioration of the situation of the users. Furthermore, they continue to have access to TCS other than those produced by the Community industry. In any event, no evidence was available indicating that any impact which could be caused to users would overrule the need to eliminate the trade distorting effects of injurious dumping and the need to restore effective competition.
- (117) Finally, it should be noted that the parallel investigation described under recital (6) will, if measures will be imposed, *de facto* revise the measures in force and update their level.

7.5. Interests of upstream industry

- (118) Of the nine raw material suppliers contacted, only one replied to the questionnaire and agreed to cooperate in this review. This company supplies an important part of TCS which indicates that its operations are representative of raw material suppliers of this product.
- (119) Sales of this supplier to the Community industry represent a significant part of the company's total turnover for that product. The company argued that should the measures be extended, production of the raw material would be maintained. On the other side, should measures be repealed, its assembly capacity would be endangered given its inability to reduce prices.
- (120) It is therefore concluded that the extension of the measures in force will have a positive impact on the upstream industry of TCS.

7.6. Competition and trade distorting effects

- (121) One importer, which also produces TCS in the Community, and is related to a Japanese exporting producer, argued that regardless of whether measures would continue there was no intention to decrease production in the Community.
- (122) Consequently, it has to be concluded that even if the measures in force are renewed the Community industry will continue to be confronted with competition from other operators in the Community producing and selling TCS. Users will therefore, as until now, be able to buy TCS of Japanese brands.

- (123) In addition, the investigation revealed that should the measures be lifted, there are reasons to believe that the survival of the Community industry could be jeopardized (see recital (94) above). Should this happen, production of TCS would be confined to Japanese producers (or their related companies), with the consequent dependence of the Community on an even smaller number of producers.
- (124) Therefore, it is concluded that the continuation of the measures should have positive effects with regard to maintaining competition and eliminating trade distorting effects.

7.7. Conclusion on Community interest

- (125) Based on the above it is concluded that there are no compelling reasons on grounds of Community interest against the maintenance of the existing anti-dumping measures.

8. ANTI-DUMPING MEASURES

- (126) All interested parties were informed of the essential facts and considerations on the basis of which it is intended to recommend that the existing measures be maintained. They were also granted a period to make representations subsequent to this disclosure.
- (127) It follows from the above that, as provided for under Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of TCS originating in Japan, should be maintained,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of television camera systems and parts thereof, falling within CN codes ex 8525 30 90 (TARIC code: 8525 30 90 10), ex 8537 10 91 (TARIC code 8537 10 91 91), ex 8537 10 99 (TARIC code 8537 10 99 91), ex 8529 90 81 (TARIC code 8529 90 81 38), ex 8529 90 95 (TARIC code 8529 90 95 30), ex 8543 89 97 (TARIC code 8543 89 97 15), ex 8528 21 14 (TARIC code 8528 21 14 10), ex 8528 21 16 (TARIC code 8528 21 16 10) and ex 8528 21 90 (TARIC code 8528 21 90 10), originating in Japan.

2. The television camera systems may consist of a combination of the following parts, imported either together or separately:

- (a) camera head with three or more sensors (12 mm or more charge-coupled device pick-up devices) with more than 400 000 pixels each, which can be connected to a rear adapter, and having a specification of the signal-to-noise ratio of 55 dB or more at normal gain; either in one piece, with the camera head and the adapter in one housing, or separate;
- (b) a view finder (diagonal, of 38 mm or more);
- (c) a base station or camera control unit (CCU) connected to the camera by a cable;
- (d) an operational control panel (OCP) for camera control (i.e. for colour adjustment, lens opening or iris) of single cameras;
- (e) a master control panel (MCP) or master set-up unit (MSU) with selected camera indication, for the overview and for adjustment of several remote cameras.

3. The duty shall not apply to:

- (a) lenses (TARIC additional code A727);
- (b) video tape recorders (TARIC additional code A727);
- (c) camera-heads with a recording unit in the same, inseparable housing (TARIC additional code A727);

(d) professional cameras which cannot be used for broadcast purposes (TARIC additional code A727);

(e) professional cameras listed in the Annex (TARIC additional codes 8786 and 8969).

4. When the television camera system is imported with the lens the free-at-Community-frontier value used in applying the anti-dumping duty shall be that of the television camera systems without the lens. If this value is not specified on the invoice the importer shall declare the value of the lens at the time of release for free circulation and shall submit appropriate evidence and information on that occasion.

5. The rate of the anti-dumping duty shall be 96,8 % of the net, free-at-Community-frontier price, before duty (TARIC additional code: 8744) except for the products manufactured by the following companies for which the rate shall be as follows:

— Ikegami Tsushinki Co. Ltd: 200,3 % (TARIC additional code: 8741),

— Sony Corporation: 108,3 % (TARIC additional code: 8742),

— Hitachi Denshi Ltd: 52,7 % (TARIC additional code: 8743).

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

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, 19 December 2006.

For the Council
The President
J. KORKEAOJA

ANNEX

List of professional camera systems not qualified as television camera systems (broadcast camera systems), which are exempted from the measures

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit	Camera adapters
Sony	DXC-M7PK	DXF-3000CE	CCU-M3P	RM-M7G	—	CA-325P
	DXC-M7P	DXF-325CE	CCU-M5P	RM-M7E ⁽¹⁾		CA-325AP
	DXC-M7PH	DXF-501CE	CCU-M7P			CA-325B
	DXC-M7PK/1	DXF-M3CE	CUU-M5AP ⁽¹⁾			CA-327P
	DXC-M7P/1	DXF-M7CE				CA-537P
	DXC-M7PH/1	DXF-40CE				CA-511
	DXC-327PK	DXF-40ACE				CA-512P
	DXC-327PL	DXF-50CE				CA-513
	DXC-327PH	DXF-601CE				VCT-U14 ⁽¹⁾
	DXC-327APK	DXF-40BCE				
	DXC-327APL	DXF-50BCE				
	DXC-327AH	DXF-701CE				
	DXC-537PK	DXF-WSCE ⁽¹⁾				
	DXC-537PL	DXF-801CE ⁽¹⁾				
	DXC-537PH	HDVF-C30W				
	DXC-537APK					
	DXC-537APL					
	DXC-537APH					
	EVW-537PK					
	EVW-327PK					
	DXC-637P					
	DXC-637PK					
	DXC-637PL					
	DXC-637PH					
	PVW-637PK					
	PVW-637PL					
	DXC-D30PF					
	DXC-D30PK					
	DXC-D30PL					
	DXC-D30PH					
	DSR-130PF					
	DSR-130PK					
	DSR-130PL					
	PVW-D30PF					
	PVW-D30PK					
	PVW-D30PL					
	DXC-327BPF					
	DXC-327BPK					
	DXC-327BPL					
	DXC-327BPH					
	DXC-D30WSP ⁽¹⁾					
	DXC-D35PH ⁽¹⁾					
	DXC-D35PL ⁽¹⁾					
	DXC-D35PK ⁽¹⁾					
	DXC-D35WSPL ⁽¹⁾					
	DSR-135PL ⁽¹⁾					

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit	Camera adapters
Ikegami	HC-340	VF15-21/22	MA-200/230	RCU-240	—	CA-340
	HC-300	VF-4523	MA-200A ⁽¹⁾	RCU-390 ⁽¹⁾		CA-300
	HC-230	VF15-39	MA-400 ⁽¹⁾	RCU-400 ⁽¹⁾		CA-230
	HC-240	VF15-46 ⁽¹⁾	CCU-37	RCU-240A		CA-390
	HC-210	VF5040 ⁽¹⁾	CCU-10			CA-400 ⁽¹⁾
	HC-390	VF5040W ⁽¹⁾				CA-450 ⁽¹⁾
	LK-33					
	HDL-30MA					
	HDL-37					
	HC-400 ⁽¹⁾					
	HC-400W ⁽¹⁾					
	HDL-37E					
	HDL-10					
	HDL-40					
	HC-500 ⁽¹⁾					
	HC-500W ⁽¹⁾					
Hitachi	SK-H5	GM-5 (A)	RU-C1 (B)	—	—	CA-Z1
	SK-H501	GM-5-R2 (A)	RU-C1 (D)			CA-Z2
	DK-7700	GM-5-R2	RU-C1			CA-Z1SJ
	DK-7700SX	GM-50	RU-C1-S5			CA-Z1SP
	HV-C10	GM-8A ⁽¹⁾	RU-C10 (B)			CA-Z1M
	HV-C11	GM-9 ⁽¹⁾	RU-C10 (C)			CA-Z1M2
	HV-C10F	GM-51 ⁽¹⁾	RC-C1			CA-Z1HB
	Z-ONE (L)		RC-C10			CA-C10
	Z-ONE (H)		RU-C10			CA-C10SP
	Z-ONE		RU-Z1 (B)			CA-C10SJA
	Z-ONE A (L)		RU-Z1 (C)			CA-C10M
	Z-ONE A (H)		RU-Z1			CA-C10B
	Z-ONE A (F)		RC-C11			CA-Z1A ⁽¹⁾
	Z-ONE A		RU-Z2			CA-Z31 ⁽¹⁾
	Z-ONE B (L)		RC-Z1			CA-Z32 ⁽¹⁾
	Z-ONE B (H)		RC-Z11			CA-ZD1 ⁽¹⁾
	Z-ONE B (F)		RC-Z2			CA-Z35 ⁽¹⁾
	Z-ONE B		RC-Z21			EA-Z35 ⁽¹⁾
	Z-ONE B (M)		RC-Z2A ⁽¹⁾			
	Z-ONE B (R)		RC-Z21A ⁽¹⁾			
	FP-C10 (B)		RU-Z3 ⁽¹⁾			
	FP-C10 (C)		RC-Z3 ⁽¹⁾			
	FP-C10 (D)		RU-Z35 ⁽¹⁾			
	FP-C10 (G)		RU-3300N ⁽¹⁾			
	FP-C10 (L)					
	FP-C10 (R)					
	FP-C10 (S)					
	FP-C10 (V)					
	FP-C10 (F)					
	FP-C10					
	FP-C10 A					
	FP-C10 A (A)					
	FP-C10 A (B)					
	FP-C10 A (C)					
	FP-C10 A (D)					

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit	Camera adapters
	FP-C10 A (F) FP-C10 A (G) FP-C10 A (H) FP-C10 A (L) FP-C10 A (R) FP-C10 A (S) FP-C10 A (T) FP-C10 A (V) FP-C10 A (W) Z-ONE C (M) Z-ONE C (R) Z-ONE C (F) Z-ONE C HV-C20 HV-C20M Z-ONE-D Z-ONE-D (A) Z-ONE-D (B) Z-ONE-D (C) Z-ONE.DA (1) V-21 (1) V-21W (1) V-35 (1) DK-H31 (1) V-35W (1)					
Matsushita	WV-F700 WV-F700A WV-F700SHE WV-F700ASHE WV-F700BHE WV-F700ABHE WV-F700MHE WV-F350 WV-F350HE WV-F350E WV-F350AE WV-F350DE WV-F350ADE WV-F500HE (*) WV-F-565HE AW-F575HE AW-E600 AW-E800 AW-E800A AW-E650 AW-E655 AW-E750 AW-E860L AK-HC910L AK-HC1500G	WV-VF65BE WV-VF40E WV-VF39E WV-VF65BE (*) WV-VF40E (*) WV-VF42E WV-VF65B AW-VF80	WV-RC700/B WV-RC700/G WV-RC700A/B WV-RC700A/G WV-RC36/B WV-RC36/G WV-RC37/B WV-RC37/G WV-CB700E WV-CB700AE WV-CB700E (*) WV-CB700AE (*) WV-RC700/B (*) WV-RC700/G (*) WV-RC700A/B (*) WV-RC700A/G (*) WV-RC550/G WV-RC550/B WV-RC700A WV-CB700A WV-RC550 WV-CB550 AW-RP501 AW-RP505 AK-HRP900 AK-HRP150	—	—	WV-AD700SE WV-AD700ASE WV-AD700ME WV-AD250E WV-AD500E (*) AW-AD500AE AW-AD700BSE

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit	Camera adapters
JVC	KY-35E	VF-P315E	RM-P350EG	—	—	KA-35E
	KY-27ECH	VF-P550E	RM-P200EG			KA-B35U
	KY-19ECH	VF-P10E	RM-P300EG			KA-M35U
	KY-17FITECH	VP-P115E	RM-LP80E			KA-P35U
	KY-17BECH	VF-P400E	RM-LP821E			KA-27E
	KY-F30FITE	VP-P550BE	RM-LP35U			KA-20E
	KY-F30BE	VF-P116E	RM-LP37U			KA-P27U
	KY-F560E	VF-P116WE ⁽¹⁾	RM-P270EG			KA-P20U
	KY-27CECH	VF-P550WE ⁽¹⁾	RM-P210E			KA-B27E
	KH-100U					KA-B20E
	KY-D29ECH					KA-M20E
	KY-D29WECH ⁽¹⁾					KA-M27E
Olympus	MAJ-387N		OTV-SX 2			
	MAJ-387I		OTV-S5			
			OTV-S6			
	Camera OTV-SX					

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

⁽¹⁾ Models exempted under the condition that the corresponding triax system or triax-adaptor is not sold on the EC market.

COUNCIL REGULATION (EC) No 1911/2006**of 19 December 2006****imposing a definitive anti-dumping duty on imports of solutions of urea and ammonium nitrate originating in Algeria, Belarus, Russia and Ukraine following an expiry review pursuant to Article 11(2) of Regulation (EC) No 384/96**

THE COUNCIL OF THE EUROPEAN UNION,

producers representing a major proportion, in this case more than 50 % of the total Community production of UAN.

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 11(2) thereof,

(4) The applicant alleged and provided sufficient *prima facie* evidence that there is a likelihood of continuation or recurrence of dumping and injury to the Community industry with regard to imports of UAN originating in Algeria, Belarus, Russia and Ukraine (the countries concerned).

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

Whereas:

(5) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 22 September 2005, by a notice of initiation published in the *Official Journal of the European Union* ⁽⁴⁾, the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

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

- (1) On 23 September 2000 the Council imposed, by Regulation (EC) No 1995/2000 ⁽²⁾, definitive anti-dumping measures on imports of solutions of urea and ammonium nitrate (UAN) originating in Algeria, Belarus, Russia, Ukraine and Lithuania. The measures imposed on imports of UAN originating in Lithuania lapsed after enlargement of the European Union on 1 May 2004. The investigation that led to these measures will be referred to as 'the original investigation'.
- (2) The measures applying to these imports consisted of specific duties, except for imports from one Algerian exporting producer from which an undertaking was accepted.

2. Request for a review

- (3) On 20 June 2005, a request for an expiry review pursuant to Article 11(2) of the basic Regulation, was lodged following the publication of a notice of impending expiry on 17 December 2004 ⁽³⁾. This request was lodged by the European Fertiliser Manufacturers Association (EFMA) (the applicant) on behalf of

3. Investigation**3.1. Investigation period**

- (6) The investigation of continuation or recurrence of dumping covered the period from 1 July 2004 to 30 June 2005 (review investigation period or RIP). The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 2002 to the end of the review investigation period (period considered).

3.2. Parties concerned by the investigation

- (7) The Commission officially advised the exporting producers, importers and users known to be concerned and their associations, the representatives of the exporting countries, the complainant and the Community producers of the initiation of the expiry review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

⁽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 238, 22.9.2000, p. 15. Regulation as amended by Regulation (EC) No 1675/2003 (OJ L 238, 25.9.2003, p. 4).

⁽³⁾ OJ C 312, 17.12.2004, p. 5.

⁽⁴⁾ OJ C 233, 22.9.2005, p. 14.

- (8) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.
- (9) In view of the large number of Community producers and of importers in the Community not related to an exporting producer in one of the countries concerned, it was considered appropriate, in conformity with Article 17 of the basic Regulation, to examine whether sampling should be used. In order to enable the Commission to decide whether sampling would indeed be necessary and, if so, to select a sample, the above parties were requested, pursuant to Article 17(2) of the basic Regulation, to make themselves known within 15 days of the initiation of the investigation and to provide the Commission with the information requested in the notice of initiation.
- (10) After examination of the information submitted, and given the high number of Community producers which indicated their willingness to cooperate, it was decided that sampling was necessary with regard to Community producers. Given the fact that only one importer provided the information requested in the notice of initiation and expressed its willingness to further cooperate with the Commission services, it was decided that sampling was not necessary with regard to importers.
- (11) Questionnaires were sent to the four sampled Community producers and to all known exporting producers.
- (12) Replies to the questionnaires were received from the four sampled Community producers and six exporting producers in the countries concerned, as well as from their related traders.
- (13) One producer in the analogue country provided a complete questionnaire reply.
- (14) The Commission sought and verified all the information it deemed necessary for a determination of the likely continuation or recurrence of dumping and resulting injury and of the Community interest. Verification visits were carried out at the premises of the following companies:
- (a) Exporting producer in Russia
- JSC Mineral and Chemical Company (Eurochem), Moscow, Russia, and its two related manufacturing companies;
 - PJSC Azot (NAK Azot), Novomoskovsk, Russia, and
 - PJSC Nevinnomyssky Azot (Nevinka Azot), Nevinnomyssk, Russia;
- (b) Related trader to Eurochem
- Eurochem Trading GmbH, Zug, Switzerland – (Eurochem Trading);
- (c) Related trader to the Ukrainian producer Stirol
- IBE Trading, New York, New York, USA;
- (d) Producer in the analogue country
- Terra Industries, Sioux City, Iowa, USA;
- (e) Sampled Community producers
- Achema AB, Jonava, Lithuania,
 - Grande Paroisse SA, Paris, France,
 - SKW Stickstoffwerke Piesteritz GmbH, Wittenberg, Germany,
 - Yara SA, Brussels, Belgium and its related producer Yara Sluiskil BV, Sluiskil, The Netherlands.
- ### 3.3. Sampling
- (15) Ten Community producers properly completed the sampling form within the deadline and formally agreed to cooperate further in the investigation. With regard to those 10 Community producers, the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of production and sales of UAN in the Community which can reasonably be investigated within the time available. The four sampled Community producers accounted for 63 % of the total Community industry production during the RIP, whilst the above 10 Community producers accounted for 75 % of the total Community production during the RIP.

- (16) In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted on the sample chosen and raised no objection thereto.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (17) The product concerned is the same as in the original investigation, i.e. a solution of urea and ammonium nitrate, a liquid fertiliser commonly used in agriculture, originating in the countries concerned. It consists of a mixture of urea, ammonium nitrate and water. The nitrogen (N) content is the most significant 'feature' of the product, and it can vary between 28 % and 32 %. Such variation can be obtained by adding more or less water to the solution. Most of the imported UAN was 32 % N, which is more concentrated, and therefore cheaper to ship. However, whatever their nitrogen content, all solutions of urea and ammonium nitrate are considered to have the same basic physical and chemical characteristics and therefore constitute a single product for the purpose of this investigation. The product concerned falls within CN code 3102 80 00.

2. Like product

- (18) As established in the original investigation, this review investigation confirmed that UAN is a pure commodity product, and its quality and basic physical characteristics are identical whatever the country of origin. The product concerned and the products manufactured and sold by the exporting producers on the domestic market in the countries concerned, as well as those manufactured and sold by the Community producers on the Community market and by the producer in the analogue country on the domestic market of the analogue country have thus been found to have the same basic physical and chemical characteristics and essentially the same uses and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

1. Dumping of imports during the RIP

- (19) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the measures would be likely to lead to a continuation or recurrence of dumping.

- (20) During the RIP, exports to the Community of UAN originating in the countries concerned only took place from Algeria. Thus, a dumping calculation to examine whether there was likelihood of continuation of dumping was carried out for the two cooperating Algerian exporting producers. For the other cooperating exporting producers in Belarus, Russia and Ukraine, the investigation focused on the likelihood of recurrence of dumping.

Algeria

General

- (21) The only two Algerian producers of UAN, Fertalge and Fertil, cooperated in the investigation. These two producers represented the totality of exports of UAN originating in Algeria to the Community during the RIP, which corresponded to 177 383 tonnes. Imports into the Community of the product concerned originating in Algeria represented 4,8 % of Community consumption which was 3 694 531 tonnes in the RIP. Imports from Algeria thus went up from 116 461 tonnes by 52 % in comparison to the original investigation period.

- (22) Therefore, the examination of dumping based on the information provided by these two cooperating exporting producers was considered to also be representative for the country as a whole.

Normal value

- (23) It was first established for each of the two cooperating exporting producers whether its total domestic sales of UAN were representative in accordance with Article 2(2) of the basic Regulation, i.e. whether they accounted for 5 % or more of the total sales volume of the product concerned exported to the Community. The investigation showed that both companies only sold one type of UAN to the Community and that this type was not sold in representative quantities on the domestic market.

- (24) Therefore, for both exporting producers normal value could not be based on domestic sales and had to be constructed pursuant to Article 2(3) of the basic Regulation by adding to each exporter's cost of manufacturing of the product exported to the Community a reasonable amount for selling, general and administrative costs (SG&A costs) and a reasonable profit margin.

- (25) Regarding the cost of manufacturing, it should be noted that energy costs, such as electricity and gas, represent a major proportion of the manufacturing cost and a significant proportion of the total cost of production. In accordance with Article 2(5) of the basic Regulation, it was examined whether the costs associated with the production and sales of the product under consideration were reasonably reflected in the records of the parties concerned.
- (26) The investigation showed no indication that the electricity would not be reasonably reflected in the records of the exporting producers. In this context, it is *inter alia* noted that electricity prices paid by the Algerian producers during the RIP were in line with international market prices, when compared to other countries, such as Canada and Norway. However, the same could not be said with regard to gas prices.
- (27) As concerns gas supplies, in fact, it was established on the basis of data published by internationally recognised sources specialised in energy markets, that the price paid by the Algerian producer was less than one fifth of the export price of natural gas from Algeria. In addition, all available data indicates that domestic gas prices in Algeria were regulated prices, which are far below market prices paid for natural gas, for example in the USA, Canada, Japan and the EU. These four markets account for a total of 46 % of worldwide gas consumption, and the prevailing domestic price levels in these four markets appear to reasonably reflect costs. Moreover, the price of gas paid by the companies concerned was significantly lower than the gas price paid by the Community producers.
- (28) In view of the above, it was considered that the gas prices paid in Algeria during the review investigation period could not reasonably reflect the costs associated with the production and distribution of gas. Therefore, as provided for in Article 2(5) of the basic Regulation, the gas costs borne by one cooperating exporting producer, Fertial, were adjusted on the basis of information from other representative markets. The adjusted price was based on the average price during the RIP of Algerian liquefied natural gas (LNG) when sold for export at the French border, net of sea freight and liquefaction costs, since this was considered to be the most appropriate basis, as this public information refers exclusively to gas of Algerian origin. France, being both the largest market for Algerian gas and having prices reasonably reflecting costs, can be considered a representative market within the meaning of Article 2(5) of the basic Regulation. The other cooperating company, Fertalge, did not use natural gas as a raw material, since it produces UAN from ammonium nitrate (AN), that is produced locally, and urea. Since the cost of AN produced locally reflected Algerian domestic gas price mentioned in recital 27, the costs of AN borne by this company were adjusted accordingly.
- (29) The manufacturing costs provided by the cooperating exporting producers were therefore recalculated in order to take account of the adjusted gas prices, using equally the prices of gas when sold at the French border, net of sea freight and liquefaction costs. To the manufacturing cost so recalculated, a reasonable amount for SG&A and a reasonable profit margin were added, in accordance with Article 2(3) and Article 2(6) of the basic Regulation.
- (30) SG&A costs and profit could not be established on the basis of the chapeau of Article 2(6) of the basic Regulation because the two cooperating companies did not have representative domestic sales of the product concerned in the ordinary course of trade. Article 2(6)(a) of the basic Regulation could not be applied, since the two cooperating producers are the only two producers of UAN in Algeria. Article 2(6)(b) was not applicable either, since the manufacturing cost for products belonging to the same general category of goods would also need to be adjusted in respect of gas costs, for the reasons indicated in recital 28 above. As it was found to be impossible to establish the magnitude of the necessary adjustment for all products belonging to the same general category of goods sold domestically, it was equally impossible to establish the profit margins after such adjustment. Therefore, SG&A costs and profit were established pursuant to Article 2(6)(c) of the basic Regulation.
- (31) In accordance with Article 2(6)(c) of the basic Regulation, the SG&A costs and profit were determined on the basis of a reasonable method. As the Algerian domestic market of products of the same general category is extremely small, information had to be obtained from other representative markets. In this respect, consideration was given to publicly available information relating to major companies operating in the nitrogen fertilisers business sector. It was found that the corresponding data from North American (USA and Canada) producers would be the most appropriate for the purpose of the investigation, given the large availability of reliable and complete public financial information from listed companies in this region of the world. Moreover, the North American market showed a significant volume of domestic sales and a considerable level of competition from both domestic and foreign companies. Therefore, SG&A costs and profit were established on the basis of the weighted average SG&A costs and profit from three

North American producers, which were found to be amongst the largest companies in the fertilisers' sector, with regard to their north American sales of the same general category of products (nitrogen fertilisers). These three producers were considered to be representative of the nitrogen fertilisers' business (on average over 80 % of the turnover of the company/business segment) and their SG&A costs and profit as representative of the same type of costs normally incurred by companies operating successfully in that business segment. The percentage for SG&A costs was 6,9 % of turnover. The calculated average profit margin was 9,1 % of turnover. Furthermore, there is no indication suggesting that the amount for profit so established exceeds the profit normally realised by Algerian producers on sales of products of the same general category in the Algerian market.

Export price

- (32) In accordance with Article 2(8) of the basic Regulation, the export price was established on the basis of the price actually paid or payable for the product concerned when sold for export to the Community.

Comparison

- (33) The normal value and export price were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price and price comparability in accordance with Article 2(10) of the basic Regulation. Accordingly, adjustments were made for differences in transport, handling, loading and ancillary costs, where applicable and supported by verified evidence.

Dumping margin

- (34) The dumping margin for each exporting producer was established on the basis of a comparison of a weighted average normal value with a weighted average export price, in accordance with Article 2(11) and (12) of the basic Regulation.
- (35) The investigation showed that dumping took place during the RIP even at a higher level than in the original investigation. The dumping margins expressed as a percentage of the cif Community frontier price, are in the range of 50 % to 60 %.

2. Development of imports should measures be repealed

2.1. Algeria

- (36) The two Algerian cooperating exporting producers represent the totality of imports of the product concerned from this country into the Community. Therefore, the examination of whether it would be likely that dumping continues should measures for Algeria be repealed was based on the information provided by these two cooperating exporting producers.

Spare capacity

- (37) Algerian cooperating producers managed to double their production capacity while they increased their production by around 20 % during the period considered. Therefore, their spare capacity has significantly increased from less than 100 000 tonnes to 300 000 to 350 000 tonnes.
- (38) Since the Algerian domestic market is insignificant and this is not likely to change in the future, any increase in production will be export-oriented. By activating their spare capacity, the two cooperating exporting producers could supply 10 % to 20 % of the Community consumption.
- (39) Given that dumping continued during the RIP and on the basis of the spare capacity that the Algerian cooperating producers have built up, it is likely that the volume of Algerian exports into the Community will increase at dumped prices should measures lapse.

- (40) In the light of the above, there is likelihood of continuation of dumped exports to the Community should measures be repealed.

Comparison between the Algerian normal value and the prevailing price level in the Community

- (41) The normal value established for both companies significantly exceeded EU market prices during the RIP. It cannot be excluded that Algerian exporting producers would continue to sell to the Community at dumped prices, whether they have to pay duties or not.

2.2. *Relationship between the constructed normal value in Belarus, Russia and Ukraine and export prices to third countries*

2.2.1. Belarus and Ukraine: domestic sales prices based on the analogue country

(42) A comparison of domestic sales prices of UAN in Belarus and Ukraine and export prices to third countries was carried out. In this respect it should be noted that since Belarus is considered a non-market economy country and Ukraine was not yet considered a market economy country at the time of the lodging of the request for the expiry review ⁽¹⁾, the normal value for these two countries had to be determined on the basis of data obtained from producers in a market economy third country, in accordance with Article 2(7) of the basic Regulation. In the notice of initiation, the USA was envisaged as an appropriate analogue country, being an open competitive market, where producers face a considerable level of competition from foreign imports.

(43) All interested parties were given the opportunity to comment on the choice of the analogue country.

(44) The European Fertilisers Importers Association, EFIA, proposed Algeria or Russia as better options, given their privileged access to the main raw material, namely gas, and since they were market economy countries subject to the same investigation. In this respect, it should be pointed out that Article 2(7)(a) requires, before any further considerations, an 'appropriate' market economy third country. While access to raw materials is an important factor as regards the choice of the analogue country, it should also be noted that the existence of dual pricing in relation to gas in these two countries made in fact these two countries an inappropriate choice. Indeed, the gas prices charged in these two countries to their domestic customers do not reflect the market value.

(45) Some interested parties alleged, although without substantiating their claim, that Russian and Algerian production processes are more similar to the ones in Belarus and Ukraine. Algeria was also suggested as having a more similar level of production to Ukraine. In this respect, it must be stressed that Belarus, Ukraine and the USA have all fully vertically integrated producers, which is definitely not the case for Algeria.

(46) A Ukrainian cooperating producer proposed Bulgaria or Romania rather than the USA. However, its proposal was not substantiated. In addition, an important factor against Bulgaria or Romania is that their domestic

markets are small with a limited number of manufacturers, contrary to the USA.

(47) Therefore, the investigation confirmed that the USA was an appropriate analogue country. Various producers and producers' associations in the USA were contacted and invited to cooperate through the completion of a questionnaire. One producer in the USA fully cooperated in the investigation. Consequently, calculations were based on the verified information from the sole USA cooperating producer, which provided a complete questionnaire reply.

2.2.2. Belarus

Preliminary remarks

(48) The sole cooperating producer in Belarus was the only exporting producer from that country, but it had no export sales to the Community in the RIP.

(49) Since there were no exports to the Community for a representative dumping finding in the RIP, and in order to establish whether dumping would be likely to recur should measures be repealed, the pricing behaviour of the cooperating exporting producer to the USA, its sole export market, and its production capacity and stocks were examined. The analysis was based on the information provided by the cooperating exporting producer mentioned in recital 48.

Comparison

(50) Data from the cooperating exporting producer showed that export prices to third countries (USA) were lower than the constructed normal value for Belarus. In fact, the investigation established that overall this price difference ranged in the RIP between 10 % and 15 %. This may indicate a likelihood of recurrence of dumping on exports to the Community should measures be repealed. Stocks and production capacity, as well as a comparison of these export prices with the prevailing price level in the Community, are examined below.

2.2.3. Ukraine

Preliminary remarks

(51) Two exporting producers cooperated in the investigation, but none of them had export sales to the Community in the RIP. There are no indications that there were more exporting producers in Ukraine.

⁽¹⁾ Regulation (EC) No 2117/2005, Article 2.

- (52) Since there were no exports to the Community for a representative dumping finding in the RIP, and in order to establish whether dumping would be likely to recur should measures be repealed, the pricing behaviour of the cooperating exporting producer to the USA, its sole export market, and its production capacity and stocks were examined. The analysis was based on the information provided by the two cooperating exporting producer mentioned in recital 51.
- (53) The two cooperating exporting producers represented 48 % of imports into the USA of the product concerned originating in Ukraine during the RIP. The remainder of the imports in the USA originating in Ukraine were also produced by one of the cooperating producers, but exported by an unrelated Ukrainian company, which does not produce UAN.

Comparison

- (54) Data from the cooperating exporting producers showed that export prices to third countries were lower than the constructed normal value for Ukraine. In fact, the investigation established that overall this price difference ranged in the RIP between 20 % and 30 %. This may indicate a likelihood of recurrence of dumping on exports to the Community should measures be repealed. Stocks and production capacity, as well as a comparison of these export prices with the prevailing price level in the Community, are examined below.

2.2.4. Russia

Preliminary remarks

- (55) Two exporting producers belonging to the same group of companies cooperated in the investigation, but no exporting producer had export sales to the Community in the RIP.
- (56) It is known that there was one producer in Russia in the RIP which did not cooperate in the investigation. For those non-cooperating exporting producer(s), the information available from Eurostat and other sources was analysed. On that basis it was found that exports of UAN to the Community from other than the cooperating producers were also non-existent. However, no reliable information as to the production capacity and production volumes, stocks and sales was available for the non-cooperating company. In this respect, and in the absence of any indication of the contrary, it was

considered that findings for the non-cooperating company would be in line with those established for cooperating companies.

- (57) Since there were no exports to the Community for a representative dumping finding in the RIP, and in order to establish whether dumping would be likely to recur should the measures be repealed, the pricing behaviour of the cooperating exporting producers to other export markets and their production capacity and stocks were examined. The analysis was based on the information provided by the cooperating exporting producers mentioned in recital 55.

Comparison

- (58) It was examined whether the costs associated with the production and sales of the product under consideration were reasonably reflected in the records of the parties concerned. As regards gas costs, it was found that the domestic gas price paid by the Russian producers was around one fifth of the export price of natural gas from Russia. In this regard, all available data indicates that domestic gas prices in Russia were regulated prices, which are far below market prices paid in unregulated markets for natural gas. Therefore, as provided for in Article 2(5) of the basic Regulation, the gas costs borne by the Russian producers were adjusted on the basis of information from other representative markets. The adjusted price was based on the average price of Russian gas when sold for export at the German/Czech border (Waidhaus), net of transport costs. Waidhaus, being the main hub for Russian gas sales to the EU, which is both the largest market for Russian gas and has prices reasonably reflecting costs, can be considered a representative market within the meaning of Article 2(5) of the basic Regulation.
- (59) The construction of the normal value was done on the basis of the manufacturing costs of the product type exported, after the adjustment for the gas cost mentioned in recital 58, plus a reasonable amount SG&A costs and for profits, in accordance with Article 2(3) and Article 2(6) of the basic Regulation.
- (60) As for Algeria, SG&A costs and profit could not be established on the basis of the chapeau of Article 2(6), first sentence, of the basic Regulation because the related

manufacturers did not have representative domestic sales of the product concerned in the ordinary course of trade. Article 2(6)(a) of the basic Regulation could not be applied, since there are only these two producers subject to the investigation. Article 2(6)(b) was not applicable either, since the manufacturing costs for products belonging to the same general category of goods would also need to be adjusted in respect of gas costs, for the reasons indicated in recital 58 above. As it was found to be impossible to establish the magnitude of the necessary adjustment for all products belonging to the same general category of goods sold domestically, it is equally impossible to establish the profit margins after such adjustment. Therefore, SG&A costs and profit were established pursuant to Article 2(6)(c) of the basic Regulation.

considered to have a considerable domestic market for this product.

(61) As in the case of Algeria and for the same reasons as explained in recital 31, SG&A costs and profit were established on the basis of the weighted average SG&A costs and profit from the same three North American producers. It should be noted that the amount for profit so established did not exceed the profit realised by the Russian producers on sales of products of the same general category on their domestic market.

(62) It was found that the export sales of the two cooperating producers were made on the basis of an agent agreement through two related traders, one located in Switzerland and the other one on the British Virgin Islands. The latter ceased to operate at the beginning of 2005. The export price was established on the basis of export prices actually paid or payable to the first independent customer in the USA, their major export market.

(63) Data from the two related traders showed that export prices to third countries were lower than the constructed normal value in Russia. In fact, the investigation established that overall this price difference ranged in the RIP between 2 % and 6 %. This may indicate a likelihood of recurrence of dumping on exports to the Community should measures be repealed.

2.3. Spare capacity in Belarus, Russia and Ukraine

(64) The possible effects of existing spare capacity were also examined. Neither Russia nor Ukraine has a relevant domestic market for UAN. On the contrary, Belarus is

(65) The Belarusian sole producer managed to increase its production by 14 % during the period considered, and was producing close to full capacity during the RIP. Its production capacity during the same period remained stable. It sold around 60 % of its production domestically, the remainder being exported to the USA. It therefore appears that this producer does not have any spare production capacity readily available.

(66) The Russian sole cooperating producer increased its production by 78 % during the period considered. Its production capacity during the same period remained stable. However, according to the information submitted, this producer still has significant available capacity of around 600 000 to 700 000 tonnes to increase its production of UAN, and could, should measures be repealed, use this spare capacity to increase exports to the Community market. Investment made by the company during the period considered suggests a potential further increase in production capacity. It is estimated that Russian overall spare capacity is at least the known 600 000 to 700 000 tonnes, which constitutes around 20 % of Community consumption. Exports to third countries grew by 79 % during the period considered.

(67) At the same time, the domestic sales of the sole cooperating Russian producer remained at a low level, representing on average less than 5 % of total sales. Since the domestic market cannot absorb the increase in production, any increase in production is likely to be exported.

(68) As to Ukraine, the two cooperating producers managed to increase production twelvefold during the period considered. Production capacity during the same period increased almost fivefold. In addition, they have considerable spare capacity to increase exports to the Community market in significant volumes should measures be repealed. It is estimated that Ukrainian overall spare capacity amounts to 700 000 to 800 000 tonnes, which constitutes around 20 % of Community consumption. Exports to third countries increased by eightfold during the period considered.

(69) Ukrainian domestic sales remained at a low level during the period considered, representing on average less than 2 % of total sales. It should be noted that growth of the domestic market cannot absorb the increase in production and therefore any increase in production is likely to be exported.

(70) On the basis of the above, it can be concluded that the cooperating producers, with the exception of Belarus, have substantial spare capacity to increase their exports to the Community market should measures be repealed.

2.4. Relationship between export prices to third countries and the prevailing price level in the Community

(71) It should be noted that the generally prevailing price level of the Community producers in the Community was lower than the average export price level of the exporting producers to third countries during the RIP, especially to the USA. This is explained by the fact that gas prices, which constitute more than 50 % of the manufacturing costs, and thus UAN prices, were higher in the USA than in Europe, and that accordingly UAN traded at a higher price in the USA.

(72) It should be noted that the export prices from the countries concerned to the USA were on average lower than the respective normal values, even though the prevailing price level in the USA was higher than prices in the Community. It can therefore be concluded that any sales to the EC market would most probably be at dumped prices.

2.5. Incentive to shift sales from other markets to the Community

(73) With regard to Belarus, there is a rapidly growing domestic market on which the sole producer sells two thirds of its production. Given that the domestic price is less than a half of the prevailing price in the Community during the RIP, there is likelihood that a rational economic decision leads the Belarusian producer to redirect significant quantities currently sold on the domestic market to the Community market at dumped prices.

(74) In this respect, it should also be noted that the Belarusian producer who is currently exporting the remaining third

to other markets would have considerable transport cost advantages when exporting to the Community instead, given its proximity to the Community border compared to other potential export markets for the Belarusian producer such as the USA, Argentina or Australia.

(75) In the light of the above, there is likelihood that the Belarusian producer would redirect significant parts of its sales to the Community at dumped prices, should measures be repealed, as there are strong economic incentives.

Conclusions on the likely export behaviour for Belarus, Russia and Ukraine

(76) As already explained in recital 20, in the absence of exports to the Community during the RIP by Belarus, Russia and Ukraine, dumping from these countries could not be established in respect of exports to the Community. However, as explained in section 2, the investigation has shown that on the basis of calculations carried out by using data relating to actual exports from these countries to their major export market, the USA, that there was a likelihood of recurrence of dumping.

3. Conclusion on the likelihood of continuation or recurrence of dumping

(77) On the basis of the analysis carried out in sections 1 to 5, it is concluded that should measures be repealed, there is likelihood that additional production would be exported to the Community, or sales currently exported to countries outside the Community or sold on the domestic markets would be redirected towards the Community market in significant quantities. It is likely that these exports to the Community will be made at dumped prices, in particular to regain lost market shares in the Community. It can therefore be concluded that, should measures be repealed, future exports to the Community would be made in increased quantities at dumped prices. Moreover, it should be noted that overseas markets are subject to higher transportation costs than the Community market, namely when considering sales from neighbouring countries, such as Belarus and Ukraine to Eastern Europe or Algeria to Southern Europe.

- (78) As regards imports into the Community originating in Algeria, since they are still made at dumped prices, and also on the above analysis of spare capacities and the comparison of price levels, dumping from Algeria is likely to continue in the future. Given that the Community was the only export market for Algeria during the RIP, it is highly likely that Algerian exporters would direct their increased export volumes mainly to this market.
- (79) In the light of the above, it is concluded that there is likelihood of continuation (from Algeria) and recurrence (from Russia, Belarus and Ukraine) of dumping should measures be repealed.

D. INJURY

1. Definition of the Community industry

- (80) Within the Community, the product concerned is manufactured by 12 producers whose output constitutes the total Community production within the meaning of Article 4(1) of the basic Regulation.
- (81) It should be noted that as compared to the original investigation, the 'Hydro Agri' companies have been renamed 'Yara'. Five companies have become part of the Community industry due to the enlargement of the European Union in 2004.
- (82) Out of the 12 Community producers, 10 companies cooperated with the investigation out of which nine were mentioned in the review request. The remaining two producers (other Community producers) remained silent. Accordingly, the following 10 producers agreed to cooperate:
- Achema AB (Lithuania),
 - AMI Agrolinz Melamine International GmbH (Austria),
 - DSM Agro (The Netherlands),
 - Duslo AS (Slovakia),

- Fertiberia SA (Spain),
- Grande Paroisse SA (France),
- Lovochemie AS (Czech Republic),
- Nitrogénművek Rt (Hungary),
- SKW Stickstoffwerke Piesteritz GmbH (Germany),
- Yara (The Netherlands, Germany, Italy and the United Kingdom).

- (83) As these 10 Community producers accounted for 75 % of the total Community production during the RIP, it is therefore considered that the above 10 Community producers account for a major proportion of the total Community production of the like product. They are therefore deemed to constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and will hereinafter be referred to as the 'Community industry'.

- (84) As indicated under recitals 10, 15 and 16, a sample consisting of four companies was selected. All sampled Community producers cooperated and sent questionnaire replies within the deadlines. In addition, the remaining complainant producers and producers supporting the investigation duly provided certain general data for the injury analysis.

2. Situation on the Community market

2.1. Consumption in the Community market

- (85) The apparent Community consumption was established on the basis of the sales volumes of the Community industry on the Community market, the sales volumes of the other Community producers on the Community market, and Eurostat data for all EU imports. Given the enlargement of the European Union in 2004, for the sake of clarity and consistency of the analysis, the consumption was established on the basis of the EU-25 market throughout the period considered.

- (86) Between 2002 and the RIP, Community consumption increased moderately by 8 %. The increase recorded in 2004 is mainly attributed to the implementation of the common agricultural policy in the new Member States after their accession to the European Union. From 2004, farmers in the new Member States had additional funding available to them which led to increased usage of fertilisers.

	2002	2003	2004	RIP
Total EC consumption in tonnes	3 425 381	3 579 487	3 740 087	3 694 532
Index (2002 = 100)	100	104	109	108

2.2. Imports from the countries concerned

2.2.1. Cumulation

- (87) In the original investigation imports of the product concerned originating in Algeria, Belarus, Russia and Ukraine were assessed cumulatively in accordance with Article 3(4) of the basic Regulation. It was examined whether a cumulative assessment was also appropriate in the current investigation.
- (88) In this respect, it was found that there were no imports of the product concerned from Ukraine throughout the period considered and no imports from Belarus and Russia in 2004 and the RIP. Therefore, the conditions set out in Article 3(4) of the basic Regulation to assess cumulatively imports of the product concerned from these countries with imports of the product concerned from Algeria were not fulfilled.
- (89) In the light of the above, it was considered that all four countries should be examined separately.

2.2.2. Volume, market share and prices of imports from each of the countries concerned

- (90) With respect to the three countries concerned with exports to the Community during the period considered, the volumes, market shares and average prices per country developed as set out below. The following quantity and price trends are based on Eurostat.

	2002	2003	2004	RIP
Volume of imports from Algeria (tonnes)	97 378	239 348	219 680	177 383
Market share	2,8 %	6,7 %	5,9 %	4,8 %
Prices of imports from Algeria (EUR/tonne)	96	99	117	131
Volume of imports from Belarus (tonnes)	101 479	44 438	—	—
Market share	3,0 %	1,2 %	—	—
Prices of imports from Belarus (EUR/tonne)	74	64	—	—
Volume of imports from Russia (tonnes)	81 901	81 809	—	—
Market share	2,4 %	2,3 %	—	—
Prices of imports from Russia (EUR/tonne)	64	70	—	—

- (91) The volume of imports from Algeria, although decreasing slightly as from 2003 onwards, gained a further 2 percentage points of market share during the period considered, whereas the prices evolved positively from 96 to 131 EUR/tonne. Regarding Belarus and Russia, their respective import volumes decreased substantially and completely ceased from 2004 onwards.
- (92) The investigation showed that imports from Algeria were not undercutting the Community industry prices during the RIP. As for the remaining countries, in the absence of imports during the RIP, a comparison of their export prices to third countries during the RIP with the Community industry prices on the Community market has equally shown no undercutting.

2.3. Imports from other countries

- (93) The volume of imports from other third countries during the period considered are shown in the table below. The following quantity and price trends are also based on Eurostat.

	2002	2003	2004	RIP
Volume of imports from Romania (tonnes)	69 733	79 137	257 113	142 288
Market share	2 %	2,2 %	6,9 %	3,9 %
Prices of imports from Romania (EUR/tonne)	94	102	112	123
Volume of imports from USA (tonnes)	26 024	57	20	6
Market share	0,7 %	0,0 %	0,0 %	0,0 %
Prices of imports from USA (EUR/tonne)	86	289 (*)	1 101 (*)	1 664 (*)

(*) Given the given the negligible quantities, these prices cannot be considered reliable.

- (94) In the case of Romania, a substantial increase of imports was recorded in 2004 gaining a market share of 6,9 %, which nevertheless dropped down to 3,9 % during the RIP in spite of favourable Community market conditions. This development should be seen against the background of the sharp increase of Romanian exports to the USA market, which, in terms of volume, represented more than three times the volumes of Romanian exports to the Community during the RIP. As regards the prices, they have increased steadily throughout the period considered and were consistently higher than the sampled Community industry's prices in 2004 and the RIP. On this basis, it is not considered that Romanian exporting producers can constitute a threat of material injury to the Community industry. Import from the USA, which only had a market share of 0,7 % in 2002, decreased dramatically to 6 tonnes in the RIP. This trend reflects the fact that sales prices in the USA were higher than sales prices to the EC until the end of the RIP so that there was no incentive for USA producers to export to the EC.
- (95) The European Fertiliser Import Association (EFIA) argued that since the Romanian exports to the Community market do not constitute a threat of material injury although their increase in volume is higher than that of Algerian exports and their prices lower than those charged by Algerian exporters, equally the Algerian exports should not constitute a threat of material injury. In this respect, it should be noted that indeed for Algeria, as indicated in recital 92, no undercutting was found and Algeria was not found to have caused material injury to the Community industry during the period considered. However, the analysis for that country developed in section 4 showed that there is a likelihood of recurrence of injury. In contrast, as anti-dumping duties were not applicable to imports of UAN originating in Romania, this country was not subject to an injury recurrence test pursuant to Article 11(2) of the basic Regulation. On this basis, the argument was rejected.

3. Economic situation of the Community industry

- (96) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Community industry.

3.1. Preliminary remarks

- (97) In view of the fact that sampling had been used with regard to the Community industry, the injury has been assessed both on the basis of information collected at the level of the entire Community industry (C.I. in the enclosed tables) and on the basis of information collected at the level of the sampled Community producers (S.P. in the enclosed tables).

- (98) Where recourse is made to sampling, in accordance with established practice, certain injury indicators (production, production capacity, stocks, sales, market share, growth and employment) are analysed for the Community industry as a whole, while those injury indicators relating to the performances of individual companies, i.e. prices, costs of production, profitability, wages, investments, return on investment, cash flow and ability to raise capital are examined on the basis of information collected at the level of the sampled Community producers.

3.2. Data relating to the Community industry as a whole

(a) Production

- (99) The Community industry's production increased by 5 % between 2002 and the RIP, i.e. from a level of around 2,8 million tonnes in 2002 to a level of around 3 million tonnes in the RIP. Specifically, production decreased by 3 % in 2003, before increasing by 2 percentage points in 2004 and by a further 7 percentage points in the RIP.

	2002	2003	2004	RIP
C.I. production (tonnes)	2 843 529	2 768 258	2 823 972	3 003 918
Index (2002 = 100)	100	97	99	106

Source: Complainants, sampling questionnaire replies and verified questionnaire replies.

(b) Capacity and capacity utilisation rates

- (100) Production capacity remained practically stable throughout the period considered. In view of the growth in production, the resulting capacity utilisation increased, from a level of 57 % in 2002 to a level of 60 % in the RIP. As already noted in the original investigation, capacity utilisation for this type of production and industry can be affected by the production of other products which can be produced on the same production equipment.

	2002	2003	2004	RIP
C.I. production capacity (tonnes)	4 984 375	4 944 575	4 941 975	4 955 075
Index (2002 = 100)	100	99	99	99
C.I. capacity utilisation	57 %	56 %	57 %	61 %
Index (2002 = 100)	100	98	100	106

(c) Stocks

- (101) The level of closing stocks of the Community industry increased progressively throughout the period considered. At the end of the RIP (30 June 2005), the stock level was relatively low but this is due to the fact that for this type of product, always, the stock levels are much lower in summer than in winter as the sales' peak is in spring and early summer. By the end of 2004, the level of stocks was 13 % higher than by the end of 2002.

	2002	2003	2004	RIP
C.I. closing stocks (tonnes)	276 689	291 085	313 770	159 926
Index (2002 = 100)	100	105	113	58

(d) Sales volume

- (102) The sales by the Community industry on the Community market decreased by 3 % between 2002 and the RIP. This development is opposite to the evolution of consumption on the Community market, which increased by 8 % during the same period (see recital 86). The overall increase in production volumes is explained by the strong export performance of the Community industry during the same period. The table below shows the export volumes of the sampled Community producers whose main destination was the USA market.

	2002	2003	2004	RIP
C.I. EC sales volume (tonnes)	2 800 226	2 641 000	2 604 215	2 722 174
Index (2002 = 100)	100	94	93	97
S.P. sales volume to third countries (tonnes)	176 269	194 543	228 937	328 796
Index (2002 = 100)	100	110	130	187

(e) Market share

- (103) The market share held by the Community industry decreased substantially between 2002 and the RIP. Specifically, the Community industry lost 8 percentage points of market share during the period considered, while the Algerian producers increased their market share from 2,8 % to 4,8 % during the same period.

	2002	2003	2004	RIP
Market share of Community industry	81,7 %	73,8 %	69,6 %	73,7 %
Index (2002 = 100)	100	90	85	90

(f) Growth

- (104) The Community industry lost a significant part of its market share, to the benefit of the Algerian, Romanian and other Community producers who gained market share during the same period.
- (105) The loss of market share can also be attributed to the rational decision made by the Community industry to increase its exports to the USA market in order to benefit from the much higher UAN prices prevailing on that market. However, in view of its large spare production capacity, the Community industry could not benefit from the growth of the Community market which was observed during the period considered.

(g) Employment

- (106) The level of employment of the Community industry increased by 5 % between 2002 and the RIP. This relatively small increase should be mainly attributed to the improved export performance of the Community industry.

	2002	2003	2004	RIP
C.I. employment product concerned	827	819	790	867
Index (2002 = 100)	100	99	96	105

(h) Productivity

- (107) Productivity of the Community industry's workforce, measured as output per person employed per year, remained fairly stable between 2002 and the RIP.

	2002	2003	2004	RIP
C.I. productivity (tonnes per employee)	3 437	3 380	3 573	3 463
Index (2002 = 100)	100	98	104	101

(i) Magnitude of dumping margin

- (108) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume of the imports from Algeria (accounting for up to 6,7 % of the Community market during the period considered), this impact cannot be considered to be negligible, especially in a highly volatile market in terms of prices like the one of the product concerned. No conclusion can be drawn with regard to Belarus, Russia and Ukraine as imports from these countries ceased in 2003.

3.3. Data relating to the sampled Community producers

(a) Sales prices and factors affecting domestic prices

- (109) The sampled Community industry producers' average net sales price increased substantially in 2004 and the RIP reflecting thus the prevailing favourable international market conditions of the product concerned during the same period. This growing trend should be seen in conjunction with the similar evolution of the cost of the principal raw material, i.e. gas, as the below table illustrates.

	2002	2003	2004	RIP
S.P. unit price EC market (EUR/tonne)	85	89	109	114
Index (2002 = 100)	100	105	128	134
S.P. gas price/MBTU (indexed)	100	107	111	126

(b) Wages

- (110) Between 2002 and the RIP, the average wage per employee increased by 9 %, as the table below shows.

	2002	2003	2004	RIP
S.P. annual labour cost per employee (000 EUR)	23,4	25,4	27,0	25,6
Index (2002 = 100)	100	108	115	109

(c) Investments

- (111) The annual flow of investments in the product concerned made by the four sampled producers developed positively during the period considered. These investments referred mainly to replacement of old machines. This shows the efforts of the Community industry to continuously improve its productivity and competitiveness. However, the results are not apparent in the evolution of productivity which remained rather stable (see recital 107) during the same period reflecting thus the difficulties of the Community industry to boost its production output.

	2002	2003	2004	RIP
S.P. net investments (000 EUR)	12 512	20 087	12 611	17 047
Index (2002 = 100)	100	161	101	136

(d) Profitability and return on investments

- (112) Profitability of the sampled producers shows a gradual improvement notably since 2003 and reached the level of 13,8 % during the RIP. At the end of the period considered the profitability reached its peak on this price-cyclical market. Indeed, numerous factors, including external ones, can affect world markets prices for UAN and other nitrogenous fertilisers. Such factors can result in either additional supply or reduced demand for these products, thereby influencing product pricing. During the period considered, due to tight supply the world market prices moved upwards. In 2002 and 2003, the profit levels found were, however, moderate and below the levels considered reasonable by the Community industry in view of the fact that this industry is highly capital-intensive. The return on investments (ROI), expressed as the profit in percent of the net book value of investments, broadly followed the above profitability trend over the whole period considered.

	2002	2003	2004	RIP
S.P. profitability of EC sales to unrelated customers (% of net sales)	8,1 %	6,0 %	12,3 %	13,8 %
Index (2002 = 100)	100	74	151	170
S.P. ROI (profit in % of net book value of investment)	22 %	24 %	50 %	58 %
Index (2002 = 100)	100	111	229	265

(e) Cash flow and ability to raise capital

- (113) Cash flow has increased significantly during the period considered. This development is in line with the development of the overall profitability during the period considered.

	2002	2003	2004	RIP
S.P. cash flow (000 EUR)	23 532	19 625	39 767	50 823
Index (2002 = 100)	100	83	169	216

- (114) The investigation did not reveal any difficulties encountered by the sampled Community producers in raising capital. In this respect, it should be noted that as several of these companies are part of large groups, they finance their activities within the group to which they belong either through cash-pooling schemes or through intra-group loans granted by the mother companies.

3.4. Conclusion

- (115) Between 2002 and the RIP, the following indicators developed positively: production volume of the Community industry increased, unit sales prices of the Community industry increased and profitability improved substantially in line with the prices. Exports to third countries increased and return on investment and cash flow evolved positively as well. Wages developed moderately and the Community industry continued to invest.
- (116) Conversely, the following indicators developed negatively: sales volumes on the Community market decreased by 3 % as opposed to a growing market. Accordingly, the market share of the Community industry decreased substantially by 8 percentage points during the period considered. The productivity remained rather stable despite the efforts of the Community industry to improve it through investments.
- (117) Overall, the situation of the Community industry has improved significantly as compared to its situation prior to the imposition of the anti-dumping measures on imports of UAN from the countries concerned in 2000. It is therefore clear that these measures had a positive impact on the economic situation of the Community industry. Nevertheless, it should be stressed that the positive development of certain indicators can also be partly attributed to the market of the like product, which was, due to the tight worldwide supply, very favourable during the two last years of the period considered. Furthermore, the positive development of the Community industry's export performance has also contributed to the overall positive evolution of the Community industry counterbalancing to a certain extent the shrinking market share within the Community.
- (118) It is therefore concluded that the situation of the Community industry has improved, as compared to the period preceding the imposition of measures, but is still fragile.

4. Likelihood of recurrence of injury

4.1. General

- (119) Since there is no continuation of material injury caused by imports from the four countries concerned, the analysis focused on the likelihood of recurrence of injury. In this respect, two main parameters were analysed: (i) the gas cost in the countries concerned and its impact on the UAN production cost, and (ii) the effect of the projected export volumes from the countries concerned to the Community on the Community industry, taking into account the conditions of competition.

4.2. Likely evolution of sales prices: Gas prices and cost of production in the countries concerned

- (120) The likelihood of the recurrence of injury will depend strongly on the likely price evolution of UAN. As gas is by far the most important cost element representing more than 50 % of the UAN cost of production when purchased at world market prices, and is therefore a determining factor in the selling price of UAN. The gas cost in the UAN production depends on the gas efficiency use and the unit price. An analysis of these two parameters in the production cost of UAN for the Community industry, on one side, and for Russia and Algeria, on the other side, has been conducted.
- (121) From this analysis it was firstly shown that gas efficiency is an important factor in establishing the cost of gas per tonne of UAN produced. In this respect, it was found that the gas efficiency of the Community industry was relatively high, reaching up to 15 % lower consumption of gas per tonne of UAN produced than that of the producers in Russia and Algeria. This is the result of the Community industry's efforts to continuously improve its productivity and competitiveness through appropriate investments requiring a yearly capital inflow approximating in average one third of its total net book-value assets. This comparative advantage should benefit the Community industry and result in a lower cost of production of UAN.
- (122) Despite this efficiency, the Community industry ends with a gas cost per tonne of UAN produced around threefold higher than that of Russia and Algeria because of the gas price difference. The artificially low gas prices in these two countries fully explain the difference. The consequent price difference of UAN in these two countries as compared to producers purchasing gas at world market prices, like those in the Community, is unlikely to be reduced in the near future. On the contrary, should the current pattern in the development of the world market gas prices in the forthcoming years be maintained, this gap may be further broadened. On

this basis, it is considered that producers in Russia and Algeria will continue to have this artificial cost advantage, which overcomes largely the high transport costs due to the weight of UAN. This renders the Community market attractive to producers even located in remote areas in these countries bearing transport costs higher than 20 % of the price.

(123) In the light of those low gas prices, the exporting producers in Russia and Algeria will thus very likely have the possibility to export the product concerned to the Community at lower prices than the Community industry's cost of production. Therefore, it is very likely that those imports would undercut the C.I.'s prices substantially.

(124) As for Belarus and Ukraine, they are not included in this analysis since for the purpose of this investigation both were considered to be non-market economy countries and therefore their data on cost of production were not requested. However, specific data concerning gas prices in these two countries were acquired and the investigation has shown that the producers in these countries were being supplied with gas in the RIP at substantially lower prices than the prices charged to the Community industry. It is therefore considered that both countries will equally have the possibility to export the product concerned at lower prices than the Community industry's cost of production and it can also be concluded that there is likelihood that those prices would undercut the C.I.'s prices.

(125) Should measures lapse, the fact that the Belarusian, Russian and Ukrainian exporters would need to re-establish themselves on the Community market and the Algerian exporters would need to strengthen their market position may also support the view that there is a likelihood that those producers would charge lower prices than the C.I. in order to regain lost market share or broaden their customer base.

(126) EFIA and certain exporting producers argued that lower costs of production could not be considered as a valid reason to justify the likelihood of recurrence of injury. It was further submitted that the possibility to undercut is not the legal standard to establish whether injury is likely to recur. Moreover, Algeria charged prices above the Community industry's prices and Belarus, Russia and Ukraine did not export to the Community at all in 2004 and the RIP and their prices to third countries were above the Community industry's prices, which are considered to be non-injurious. This evidence would demonstrate, according to EFIA, that the exporting

producers are not relying on their lower gas cost by setting lower prices, but on the contrary charge higher prices and rather aim to maximise their profit margin.

(127) The rationale behind the establishment of likelihood of recurrence of injury is indeed whether the expiry of the measures would create conditions that would encourage the recurrence of injury. In this respect, it should be firstly noted that, as the parties acknowledge, the exporting producers in the countries concerned benefit from low gas prices, which offer them the discretion to undercut the Community industry's prices. On the other side, the investigation showed that their exports during the RIP were dumped. This pricing behaviour was seen in the light of (i) the exporters' significant spare export capacity, and (ii) their substantially lower cost of production. The first indicates their strong incentive to find the markets for selling their production. The second shows their capability to undercut severely the Community industry prices, in order to meet their sales requirements in volume.

(128) With regard to the prices, it should be recalled that during the last two years of the period considered, favourable market conditions kept the prices at a very high level irrespective of the applicable anti-dumping measures. Indeed, during that period, a tight worldwide supply demand balance resulted in high prices for all nitrogen fertilisers. UAN is like the other nitrogen fertilisers a commodity whose pricing is influenced by numerous factors, going from the volatile gas price having a considerable impact on the supply as being the most important costing element to the weather conditions, crops and grain stock levels resulting in reduced or increased demand. With particular regard to the Community market, the demand for nitrogen fertilisers is expected to slightly decrease in the forthcoming years⁽¹⁾. The maintenance of such high prices depends therefore on a tight supply, which is nevertheless very unlikely, as the investigation showed, given the spare export capacity of the countries concerned and the likelihood of redirection of part of their exports to third countries during the RIP, should the measures be lapsed. This scenario will very likely lead the exporting producers to lower their prices undercutting the prices of the Community industry, in order to gain market share and meet their requirements in export volumes. Under such circumstances, the Community industry would be forced either to lower its prices to a level close to or below the cost of production given the maintained high cost of gas or to lose significant market share and thus revenue, or both. An increase of exports to the USA market is highly unlikely due to the reasons set out in recital 135. Therefore, a deterioration of the Community industry's overall performance would be the inevitable consequence of the repeal of the measures.

⁽¹⁾ Source: 'Global fertilisers and raw materials supply and supply/demand balances: 2005-2009', A05/71b, June 2005, International Fertiliser Industry Association.

- (129) With regard to the profit-maximising argument, it should be noted that this is based on the positive price differential observed during the period considered between the USA and the Community market, which nevertheless cannot be considered as an appreciation element for the future prices of a highly volatile commodity such as UAN. On the basis of the above, it was established that there is a high risk of recurrence of injury, should the measures be repealed, and therefore the argument was rejected.

4.3. Impact on the Community industry of the projected export volumes and price effects in case of repeal of measures

4.3.1. Preliminary remarks — Conditions of competition

- (130) UAN is a liquid fertiliser supplying nitrogen to crops. It is mainly used as a pre-planting fertiliser for arable crops, which require UAN usually in the spring time. UAN has a limited interchangeability with the other nitrogen fertilisers as farmers use different equipment for applying UAN and it can be mixed with other solutions, such as pesticides, for a single application. Demand is therefore characterised by seasonal peaks and is relatively inelastic.
- (131) Although UAN is generally consumed seasonally, it is produced throughout the year as this is more efficient than ceasing production. As a result, Community producers are found with peak inventories during autumn and winter. Massive imports of the product concerned at depressed prices during spring and summer will very likely have a significant adverse effect on the Community industry's prices for such a highly volatile commodity as the product concerned, for which prices are set on a weekly basis.

4.3.2. Exports from the countries concerned

- (132) Given the absence of exports from the countries concerned except Algeria during the RIP, the analysis is focused on the likelihood of redirection of exports made to other countries during the RIP towards the Community market in the imminent future. In addition, the likely evolution of sales prices of UAN has to be analysed.
- (133) Regarding the likely evolution of exports to the Community market, it should be noted that imports of UAN into the USA market originating in Belarus, Russia and Ukraine were subject to anti-dumping measures until their repeal in April 2003. The table below shows the

export development of these three countries to the USA market as of 2003:

Exports to the USA market from:	2003 (*)	2004	RIP (**)
Belarus in tonnes	156 596	244 526	227 772
Russia in tonnes	179 993	614 395	699 100
Ukraine in tonnes	111 321	103 440	145 828
Total in tonnes	447 910	962 361	1 072 700

(*) The figures include the first three months of 2003, i.e. the period within which the measures were still in place.

(**) The RIP is considered for the sake of comparison with the overall analysis.

Source: 'Foreign Trade Statistics', published by the US Census Bureau.

- (134) On this basis, it is shown that these countries increased significantly their exported volume from 2003 to 2004. In the case of Russia, in particular, the export volume rose from 180 000 tonnes in 2003 to about 600 000 tonnes in 2004, representing a more than threefold increase. The above trade statistics also show that the sharp and sudden increase in export volumes from these countries to the USA came to a halt during the RIP, where the increase in comparison to 2004 was less profound (11 %). The stabilisation of their collective exports volumes to the USA market to around 1 million tonnes was confirmed by these countries' post-RIP export performance to the USA.
- (135) In the final report of the USA anti-dumping investigation on UAN imports from Belarus, Russia and Ukraine, the reason for this stabilisation is described in detail⁽¹⁾. In this report, it is specifically stated that the high ratio of inland transportation costs means that the market for imports is virtually limited to the coastal areas and that these costs make final sales of imported UAN to many areas of the USA, including the important UAN consumption States in the so-called 'farm belt' area, far too expensive as compared to locally produced UAN. In other words, there is a limit on the size of the USA market with regard to imports, and the most significant areas in terms of consumption remain shielded from imports due to their location. In view of the observed stabilisation of imports from Belarus, Russia and Ukraine, as described in recital 134 above, it is therefore concluded that the USA market cannot absorb import volumes significantly higher than those registered in the RIP.

⁽¹⁾ 'Urea Ammonium Nitrate Solutions from Belarus, Russia, and Ukraine — Investigations Nos. 731-TA-1006, 1008 and 1009 (Final), Publication 3591', April 2003, US International Trade Commission, p. 25, V-4, V-5.

- (136) In the above context, and in view of the relative proximity of the Community market, it can be concluded that significant sales or spare capacity in the countries concerned, will be very likely directed toward the Community market, should the measures be allowed to lapse. Given the lower level of transport costs as compared to exports to the USA market, their export prices can be substantially lower than those prevailing in the USA market. Furthermore, as shown in recitals 50, 54 and 63, it was found that the sales of the cooperating exporting producers on the USA market were made at prices lower than the respective normal values.

4.3.3. Impact of spare capacities

Algeria

- (137) It is recalled that the domestic market of the product concerned in Algeria is insignificant and that virtually all production capacity is export oriented. Furthermore, the investigation showed that the current spare capacity of the Algerian producers represent 10 % to 20 % of the consumption on the Community market. The total current spare capacity is estimated to be around 300 000 to 350 000 tonnes.
- (138) In particular in view of the proximity of the Community market, it is very likely that, if the measures were allowed to lapse, this spare production capacity would be used for production of the product concerned for export to the Community (Algeria only has 4,8 % market share). The expected high volumes would likely be at dumped prices and likely cause injury to the Community producers.

Belarus

- (139) It was found that there is a rapidly growing domestic market, on which the sole producer sold two thirds of its production during the RIP. Moreover, there were no exports to the Community in 2004 and the RIP and the exports to USA market have decreased despite the absence of anti-dumping measures and favourable market conditions.
- (140) If the measures were allowed to lapse, the situation with regard to Belarus would most likely change dramatically. In view of the fact that the domestic price was less than half of the prevailing market price in the Community during the RIP, a rational economic decision would lead the Belarusian producer to redirect significant quantities currently sold on the domestic market to the

Community market at dumped prices. A recurrence of injury caused by high volumes of low prices imports from Belarus would likely be the result.

Russia

- (141) The Russian domestic market is relatively small as compared to the spare capacity which, as already mentioned in recital 66, amounts to 600 000 to 700 000 tonnes and which may be substantially increased if the capacities of the non-cooperators or capacities utilised currently in producing and exporting urea and ammonium nitrate, the two other nitrogen fertilisers, are added.
- (142) In this respect, it is also worth noting that there are currently trade defence measures imposed by the Community on imports of upstream products, namely solid urea and ammonium nitrate, from Russia⁽¹⁾. Regarding the measures on urea, an expiry review investigation is currently being carried out⁽²⁾. Moreover, an interim review investigation limited to one major Russian exporting producer is currently being carried out with regard to the measures on ammonium nitrate⁽³⁾. Therefore, depending on the final outcome of these review investigations, there is a risk of shifting of production from those products to UAN, which could then result in an additional substantial increase of the estimated spare capacity of the Russian producers.
- (143) In view of the above there is a strong likelihood that exports to the Community will resume if measures were allowed to lapse. The volumes of such imports can conservatively be estimated to represent close to 20 % of the Community market, considering the consumption on that market (see recital 86) and the actual spare capacities in Russia. In view of the extremely low gas prices being paid by the Russian producers and the consequent pricing advantage for the product concerned, such imports would likely cause severe injury to the Community industry.

Ukraine

- (144) Among the countries concerned, Ukraine is at this moment the country with the largest spare capacity which is estimated in the range of 700 000 to 800 000 tonnes. The current spare capacity alone accounts for around 20 % of the Community consumption.

⁽¹⁾ Urea: Regulation (EC) No 901/2001 (OJ L 127, 8.5.2001, p. 11). Ammonium nitrate: Regulation (EC) No 658/2002 (OJ L 102, 18.4.2002, p. 1), as last amended by Regulation (EC) No 945/2005 (OJ L 160, 23.6.2005, p. 1).

⁽²⁾ OJ C 105, 4.5.2006, p. 12.

⁽³⁾ OJ C 300, 30.11.2005, p. 8.

- (145) In the absence of a significant domestic market and in view of the proximity of the Community market, it is likely that, should the measures lapse, massive exports will be directed to the Community market. These exports will as shown above probably be at dumped levels and thereby cause major injury to the Community industry.

4.4. Conclusion on likelihood of recurrence of injury

- (146) In view of the artificially low prices the producers in the countries concerned pay for the basic raw material gas, and the impact this has on the production cost of UAN, it is likely that, if the measures were allowed to lapse, the producers in the countries concerned will have the possibility to export the product concerned at lower prices than the Community industry's production cost.
- (147) All countries concerned but Belarus have a surplus capacity which could be turned towards the Community market, should the measures lapse. As concerns Belarus, given the high sales volumes on the domestic market at much lower prices than those prevailing on the Community market during the RIP, it is very likely that at least part of them would be redirected to the Community market, should the measures lapse. The lower transport costs for sales to the Community as compared to the USA could also stimulate a redirection of sales to the Community market. In addition, for all four countries a redirection of part of their current exports from other countries to the Community is likely if the current measures were repealed as was demonstrated in recitals 132 to 136.
- (148) EFIA and certain exporting producers submitted that the assumption of shifting from urea and ammonium nitrate production to UAN ignores the basic economic fact that producers can not simply switch production without additional investments. Furthermore, they claimed that producers will not give up more profitable products just because anti-dumping measures on a less profitable product are removed.
- (149) With regard to the additional investments required, it should be noted that most of the major producing exporters of nitrogen fertilisers are integrated producers and therefore the decision on producing/exporting one or the other product depends mainly on the market conditions. As for the profitable products, the producers will indeed look for the most profitable products. In this respect, the anti-dumping measures play a major role in their decision, as this is demon-

strated by the significant increase in dumped exports of UAN to the USA market during 2004 and the RIP, once the USA anti-dumping measures were repealed in 2003. Therefore, sound economic decisions made by the exporting producers will in all likelihood lead them to switch from one product to the other for maintaining or increasing their overall sales of nitrogen fertilisers and profits thereof. On this basis, the above arguments were rejected.

- (150) The above leads to the conclusion that should measures lapse, exports from the countries concerned would very likely occur in significant volumes and at prices that undercut the Community industry's prices in view of their distorted and artificially low cost of production. This would in all likelihood have the effect of reinforcing the price-depressive trend on the market, with an expected negative impact on the economic situation of the Community industry. This would, in particular, impede the financial recovery that was achieved in 2004 and the RIP, leading to a likely recurrence of injury. In other words, the more the market conditions turn bearish, the sharper the price depression that can be expected from the countries concerned, account being taken of their significant difference in cost of production and their spare capacity.

E. COMMUNITY INTEREST

1. Introduction

- (151) According to Article 21 of the basic Regulation, it was examined whether maintenance of the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an appreciation of all the various interests involved.
- (152) It should be recalled that, in the original investigation, the adoption of measures was considered not to be against the interest of the Community. Furthermore, the fact that the present investigation is a review, thus analysing a situation in which anti-dumping measures have already been in place, allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.
- (153) On this basis, it was examined whether, despite the conclusions on the likelihood of recurrence of injurious dumping, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.

2. Interest of the Community industry

(154) The Community industry has proven to be a structurally viable industry. This was confirmed by the positive development of its economic situation observed after the imposition of anti-dumping measures in 2000. In particular, the Community industry improved its profit situation between 2002 and the RIP.

(155) It can reasonably be expected that the Community industry will continue to benefit from the measures currently imposed and further recover by reversing the downward trend in market share and improving further its profitability. Should the measures not be maintained, it is likely that increased imports at dumped prices from the countries concerned will occur thereby causing injury to the Community industry by exerting a downward pressure on the sales prices which will endanger its currently positive but still fragile financial situation.

3. Interest of importers

(156) As mentioned in recital 10, only one importer indicated its willingness to be included in the sample and provided the basic information required in the sampling form. However, after sending the full questionnaire to the said importer, it informed the Commission that it did not wish to further cooperate with the investigation.

(157) It is recalled that in the original investigation it was found that the impact of the imposition of measures would not be significant to the extent that the imports would continue to take place albeit at non-injurious prices and that as a rule, importers do not only deal in UAN but also, to a significant extent, in other fertilisers. Regarding the presumption that imports would continue to take place, this was only confirmed by imports from Algeria where an undertaking is in place for one exporting producer. This leads to the conclusion that some importers may indeed have had negative consequences from the imposition of measures, as indicated in recital 66 of Commission Regulation (EC) No 617/2000⁽¹⁾. However, the investigation did not show that some of the importers completely ceased their activities, but rather appeared to have focused on different fertilisers as projected. Thus, the imposition of measures appears to have had an overall limited impact on the majority of importers/traders.

(158) In the absence of cooperation from importers, there is no reliable information available indicating that the maintenance of the measures will have a significant negative effect on importers or traders.

(159) EFIA submitted that the non-cooperation of importers should not be considered as a lack of interest from their side but as a reflection of the unfair situation given the significant resources required by an anti-dumping investigation as opposed to their limited resources due to their small or medium size enterprises. Furthermore, they claimed that the investigation ignored the cumulative effect of the numerous anti-dumping measures on fertilisers on importers, and thus failed to apply a fair analysis of the effects on importers and farmers.

(160) In this respect, it should be noted that for importers dealing with a wide range of fertilisers, UAN being one of them, there is the possibility of supplying with the different nitrogen fertilisers from other sources not presently subject to anti-dumping measures. On this basis, it was concluded that any negative impact from the continuation of measures on importers would not be a compelling reason against the continuation of measures.

4. Interest of users

(161) Users of UAN are farmers in the Community. Demand for nitrogen fertilisers appears to be relatively inelastic and farmers tend to buy from the cheapest source. In examining the possible effect of the imposition of measures on users, it was concluded in the original investigation that given the small incidence of the cost of UAN on the farmers, any increase in these costs was unlikely to have a significant adverse effect on them. The fact that no users or user association provided any information contradicting the above finding in the framework of the current review investigation seems to confirm that: (i) UAN represents a very small part of total production costs for these farmers; (ii) the measures currently in force did not have any substantial negative effect on their economic situation; and (iii) the continuation of measures would not adversely affect the financial interests of the users.

5. Conclusion on Community interest

(162) Given the above, it is concluded that there are no compelling reasons against the maintenance of the current anti-dumping measures.

F. ANTI-DUMPING MEASURES

(163) All parties were informed of the essential facts and considerations on the basis of which it is intended to recommend that the existing measures be maintained. They were also granted a period to make representations subsequent to this disclosure.

⁽¹⁾ OJ L 75, 24.3.2000, p. 3.

(164) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of UAN, originating in Algeria, Belarus, Russia and Ukraine should be maintained. It is recalled that these measures consist of specific duties, with the exception of the imports of the product concerned which are manufactured and sold for export to the Community by one Algerian company from which an undertaking has been accepted,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution falling within CN code 3102 80 00 and originating in Algeria, Belarus, Russia and Ukraine.

2. The amount of duty in euro per tonne shall be as follows:

Country	Manufacturer	Amount of duty (per tonne)	TARIC additional code
Algeria	All companies	EUR 6,88	A999
Belarus	All companies	EUR 17,86	—
Russia	JSC Nevinnomyssky Azot 357030 Russian Federation Stavropol region Nevinnomyssk, Nizyaev st. 1	EUR 17,80	A176
	All other companies	EUR 20,11	A999
Ukraine	All companies	EUR 26,17	—

3. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs

value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93 ⁽¹⁾, the amount of anti-dumping duty, calculated on the amounts set above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

4. Notwithstanding paragraph 1, the definitive anti-dumping duty shall not apply to imports released into free circulation in accordance with Article 2.

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

Article 2

1. Imports declared for release into free circulation under the following TARIC additional codes which are produced and directly exported (i.e. shipped and invoiced) by the company named below to a company in the Community acting as an importer shall be exempt from the anti-dumping duty imposed by Article 1 provided that such imports are imported in conformity with paragraph 2 of this Article.

Country	Company	TARIC additional code
Algeria	Fertalge Industries spa 12, Chemin AEK Gadouche Hydra, Alger	A107

2. The exemption shall be conditional upon presentation to the relevant Member State's customs services of a valid undertaking invoice issued by the exporting company containing the essential elements listed in the Annex to this Regulation.

Article 3

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, 19 December 2006.

For the Council
The President
J. KORKEAOJA

⁽¹⁾ OJ L 253, 11.10.1993, p. 40.

ANNEX

Elements to be indicated in the undertaking invoice referred to in Article 2(2):

1. The TARIC additional code under which the goods on the invoice may be customs cleared at Community borders (as specified in the Regulation).
2. The exact description of the goods, including:
 - CN code,
 - The nitrogen ('N') content of the product (in percentages),
 - quantity (to be given in tonnes).
3. The description of the terms of the sale, including:
 - price per tonne,
 - the applicable payment terms,
 - the applicable delivery terms,
 - total discounts and rebates.
4. The name of the unrelated importer to which the invoice is issued directly by the company.
5. The name of the official of the company that has issued the undertaking invoice and the following signed declaration:

'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by [company], and accepted by the European Commission through Regulation (EC) No 617/2000. I declare that the information provided in this invoice is complete and correct.'

COMMISSION REGULATION (EC) No 1912/2006**of 20 December 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 21 December 2006.

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

Done at Brussels, 20 December 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 20 December 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	103,0
	204	80,6
	999	91,8
0707 00 05	052	109,5
	204	61,5
	628	155,5
	999	108,8
0709 90 70	052	132,5
	204	58,3
	999	95,4
0805 10 20	052	74,3
	204	59,0
	220	53,3
	388	72,9
	999	64,9
0805 20 10	204	61,6
	999	61,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	65,5
	624	72,2
	999	68,9
0805 50 10	052	55,6
	528	43,0
	999	49,3
0808 10 80	388	107,5
	400	90,3
	404	88,2
	512	57,4
	720	80,7
	999	84,8
0808 20 50	400	97,9
	720	51,1
	999	74,5

⁽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 1913/2006**of 20 December 2006****laying down detailed rules for the application of the agrimonetary system for the euro in agriculture and amending certain regulations**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro ⁽¹⁾, and in particular Article 9 thereof,

Whereas:

(1) Commission Regulation (EC) No 2808/98 of 22 December 1998 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture ⁽²⁾ has been substantively amended since its adoption. Moreover, the provisions on compensation relating to appreciable revaluations and to reductions in the exchange rates applied to direct aid are now obsolete under Article 11 of Regulation (EC) No 2799/98. In the interests of clarity and simplification, Regulation (EC) No 2808/98 should therefore be repealed and replaced by a new Regulation.

(2) The operative events for the exchange rates applicable to the different situations which arise within the framework of agricultural legislation must be laid down, without prejudice to any specific definitions or exemptions provided for in the rules for the sectors concerned on the basis of the criteria mentioned in Article 3 of Regulation (EC) No 2799/98.

(3) For all the prices or amounts to be determined within the framework of trade with third countries, acceptance of the customs declaration is the operative event most suited to achieving the commercial objective concerned. The same applies to export refunds and to the determination of the entry price of fruit and vegetables into the Community, on the basis of which products are classed in the Common Customs Tariff. This operative event should therefore be adopted.

(4) The entry price of fruit and vegetables into the Community is determined on the basis of the standard import value of fruit and vegetables referred to in Article 4(1) of Commission Regulation (EC) No 3223/94

of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽³⁾. Representative prices on the import markets are used to calculate that standard amount. The operative event for the exchange rate for those prices should be determined on the date on which they apply.

(5) For production refunds, the operative event for the exchange rate is as a general rule linked to the completion of certain specific formalities. In order to harmonise the rules, it should be laid down that the operative event is the date on which products are declared to have reached the required destination, where such a destination is required, and in all other cases the acceptance of the application for payment of the refund by the paying agency.

(6) In the case of the aid for processing citrus fruits and fruit and vegetables referred to in Article 3 of Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits ⁽⁴⁾ and in Articles 2 and 6a(1) of Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products ⁽⁵⁾ respectively, for the minimum price referred to in Article 6a(2) of Regulation (EC) No 2201/96, and for the aid for dried fodder referred to in Article 4 of Council Regulation (EC) No 1786/2003 of 29 September 2003 on the common organisation of the market in dried fodder ⁽⁶⁾, the commercial objective is attained when the products are taken over by the processor. The operative event for the exchange rate should therefore be determined on this basis.

(7) For aid granted by quantity of product marketed or to be used in a specific way, the obligation to be complied with for the purposes of granting the aid is an event that guarantees the appropriate use of the products in question. The taking over of the products by the operator concerned is a prerequisite allowing the competent authorities to carry out the required checks or inspections on the operator's accounts and guaranteeing uniform treatment of the files. The operative event for the exchange rate should therefore be established in relation to the taking over of the products.

⁽¹⁾ OJ L 349, 24.12.1998, p. 1.

⁽²⁾ OJ L 349, 24.12.1998, p. 36. Regulation as last amended by Regulation (EC) No 1044/2005 (OJ L 172, 5.7.2005, p. 76).

⁽³⁾ 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).

⁽⁴⁾ OJ L 297, 21.11.1996, p. 49. Regulation as last amended by the 2003 Act of Accession.

⁽⁵⁾ OJ L 297, 21.11.1996, p. 29. Regulation as last amended by Commission Regulation (EC) No 386/2004 (OJ L 64, 2.3.2004, p. 25).

⁽⁶⁾ OJ L 270, 21.10.2003, p. 114. Regulation as amended by Regulation (EC) No 583/2004 (OJ L 91, 30.3.2004, p. 1).

- (8) For other aid granted in the agricultural sector, situations may differ widely. However, such aid is always granted on the basis of an application and within deadlines laid down by the legislation. The operative event for the exchange rate in this case should therefore be established as the deadline for the submission of applications.
- (9) In the case of the support schemes listed in Annex I to and Article 12 of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers ⁽⁷⁾, the operative event for the exchange rate is defined by Article 45 of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽⁸⁾. Reference should be made to this provision.
- (10) In the case of the prices, premiums and aid in the wine sector provided for in Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽⁹⁾, the operative event for the exchange rate must be linked, depending on the case, to the starting date of the wine year, the application of specific contracts or the completion of certain operations such as the enrichment or processing of wine products. The operative event to be taken into account should therefore be specified for each situation.
- (11) The situations to be taken into account for the purposes of determining the operative event are very different for the aid in the milk and milk products sector referred to in Article 1(b)(i), (ii) and (iii) of 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 on the Community market ⁽¹⁰⁾, in Article 7 of Commission Regulation (EC) No 2799/1999 of 17 December 1999 laying down detailed rules for applying Regulation (EC) No 1255/1999 as regards the grant of aid for skimmed milk and skimmed-milk powder intended for animal feed and the sale of such skimmed-milk powder ⁽¹¹⁾, in Article 1 of Commission Regulation (EC) No 2707/2000 of 11 December 2000 laying down rules for applying Council Regulation (EC) No 1255/1999 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments ⁽¹²⁾, in Article 2(1) of Commission Regulation (EEC) No 2921/90 of 10 October 1990 on aid for the production of casein and caseinates from skimmed milk ⁽¹³⁾ and for the levy referred to in Article 1 of Commission Regulation (EC) No 595/2004 of 30 March 2004 laying down detailed rules for applying Council Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector ⁽¹⁴⁾. The operative event should therefore be laid down in accordance with the specific nature of each of these situations.
- (12) In the case of the transport costs referred to in Article 19(2) of Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream ⁽¹⁵⁾ and in Article 11(2) of Commission Regulation (EC) No 214/2001 of 12 January 2001 laying down detailed rules for the application of Council Regulation (EC) No 1786/2003 as regards intervention on the market in skimmed-milk powder ⁽¹⁶⁾, the operative event for the exchange rate must be based on the date of submission of tenders under public contracts. This operative event should therefore be established as the date on which an admissible tender has been received by the competent authority for the corresponding transport contract.
- (13) The reference price for sugar and the minimum price for quota beet referred to in Article 5 of Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector ⁽¹⁷⁾ are closely linked and should be known to operators for an entire marketing year. The same should apply for the one-off amount levied on the additional sugar quotas and on the supplementary isoglucose quotas, and to the surplus amount and the production charge referred to in Articles 8(3), 9(3), 15 and 16 respectively of Regulation (EC) No 318/2006. The operative event for the exchange rate for these prices and amounts should therefore be established as close as possible but prior to the date of harvest.

⁽⁷⁾ OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 1405/2006 (OJ L 265, 26.9.2006, p. 1).

⁽⁸⁾ OJ L 209, 11.8.2005, p. 1. Regulation as amended by Regulation (EC) No 320/2006 (OJ L 58, 28.2.2006, p. 42).

⁽⁹⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2165/2005 (OJ L 345, 28.12.2005, p. 1).

⁽¹⁰⁾ OJ L 308, 25.11.2005, p. 1. Regulation as last amended by Regulation (EC) No 1474/2006 (OJ L 275, 6.10.2006, p. 44).

⁽¹¹⁾ OJ L 340, 31.12.1999, p. 3. Regulation as last amended by Regulation (EC) No 1558/2006 (OJ L 288, 19.10.2006, p. 21).

⁽¹²⁾ OJ L 311, 12.12.2000, p. 37. Regulation as last amended by Regulation (EC) No 943/2006 (OJ L 173, 27.6.2006, p. 9).

⁽¹³⁾ OJ L 279, 11.10.1990, p. 22. Regulation as last amended by Regulation (EC) No 1487/2006 (OJ L 278, 10.10.2006, p. 8).

⁽¹⁴⁾ OJ L 94, 31.3.2004, p. 22. Regulation as amended by Regulation (EC) No 1468/2006 (OJ L 274, 5.10.2006, p. 6).

⁽¹⁵⁾ OJ L 333, 24.12.1999, p. 11. Regulation as last amended by Regulation (EC) No 1474/2006 (OJ L 275, 6.10.2006, p. 44).

⁽¹⁶⁾ OJ L 37, 7.2.2001, p. 100. Regulation as last amended by Regulation (EC) No 2107/2005 (OJ L 337, 22.12.2005, p. 20).

⁽¹⁷⁾ OJ L 58, 28.2.2006, p. 1. Regulation as amended by Commission Regulation (EC) No 1585/2006 (OJ L 294, 25.10.2006, p. 19).

- (14) In the case of amounts of a structural or environmental character as referred to in Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽¹⁸⁾, and amounts approved in accordance with Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) ⁽¹⁹⁾, the payments of which are assured by the rural development programmes approved under Regulation (EC) No 1698/2005, the amounts are laid down for a marketing year or a calendar year. The commercial objective is therefore attained if the operative event for the exchange rate is established for the year concerned. Based on this, the operative event should be set at 1 January of the year in which the decision to grant aid is taken.
- (15) The lump sums referred to in point 3 of Annex I to Commission Regulation (EC) No 1433/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operational funds, operational programmes and financial assistance ⁽²⁰⁾, intended to cover overheads specifically related to the operational funds or programmes referred to in Articles 15 and 16 of Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽²¹⁾, are determined for a given year. The operative event for the exchange rate should therefore be set at 1 January of the year to which these overheads relate.
- (16) For other prices and amounts linked to those prices, the commercial objective is attained on entry into force of the legal act on the basis of which those prices and amounts are determined. However, the operative event for the exchange rate must also correlate with the accounting and reporting obligations of operators and the Member States. Consequently, to allow simplification of management, a single operative event should be established for all prices and amounts relating to a certain type of operation taking place within a given period, provided that they are not too removed from the commercial objective, and the first day of the month in which the legal acts concerned come into force should be used to this end.
- (17) In the case of advances and securities, the amounts to be paid or the guaranteed amounts are fixed in euro in accordance with the agricultural legislation and in particular Article 45 of Regulation (EC) No 1290/2005. The exchange rate applicable to these amounts must therefore be close to the date of payment of the advance or the date on which the securities are lodged. If the securities are used, the amount of those securities must also cover all the risks for which they were set up. The operative event for the exchange rate must in these circumstances be defined on the basis either of the day on which the amount of the advance is fixed or the security is lodged, or the date on which these are paid.
- (18) Under Article 4(2) of Commission Regulation (EC) No 884/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the financing by the European Agricultural Guarantee Fund (EAGF) of intervention measures in the form of public storage operations and the accounting of public storage operations by the paying agencies of the Member States ⁽²²⁾, without prejudice to the specific rules and operative events provided for in the Annexes to that Regulation or in agricultural legislation, expenditure calculated on the basis of amounts fixed in euro and expenditure or revenue incurred in national currency under that Regulation are converted as the case may be into national currency or into euro on the basis of the last exchange rate established by the European Central Bank before the accounting year during which the operations are recorded in the accounts of the paying agency, and that exchange rate also applies to bookings relating to the different specific cases referred to in Article 7(1) of that Regulation. Reference should therefore be made to that provision.
- (19) The establishment, by Regulation (EC) No 1290/2005, of a single operative event for all direct payments provided for in Regulation (EC) No 1782/2003, has rendered obsolete or contradictory certain operative events provided for in the sectoral agricultural legislation, in particular Commission Regulation (EEC) No 1003/81 of 10 April 1981 defining the operative event in the case of the sale of cereals and rice held in store by intervention agencies ⁽²³⁾, Commission Regulation (EEC) No 3749/86 of 9 December 1986 determining the operative event for calculating levies and refunds in the rice sector ⁽²⁴⁾, Commission Regulation (EEC) No 1713/93 of 30 June 1993 establishing special detailed rules for applying the agricultural conversion rate in the sugar sector ⁽²⁵⁾, Commission Regulation (EEC) No 1718/93 of 30 June 1993 regarding the operative event for the agricultural
- ⁽¹⁸⁾ OJ L 277, 21.10.2005, p. 1. Regulation as amended by Regulation (EC) No 1463/2006 (OJ L 277, 9.10.2006, p. 1).
- ⁽¹⁹⁾ OJ L 160, 26.6.1999, p. 80.
- ⁽²⁰⁾ OJ L 203, 12.8.2003, p. 25. Regulation as last amended by Regulation (EC) No 576/2006 (OJ L 100, 8.4.2006, p. 4).
- ⁽²¹⁾ OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Commission Regulation (EC) No 47/2003 (OJ L 7, 11.1.2003, p. 64).
- ⁽²²⁾ OJ L 171, 23.6.2006, p. 35.
- ⁽²³⁾ OJ L 100, 11.4.1981, p. 11.
- ⁽²⁴⁾ OJ L 348, 10.12.1986, p. 32.
- ⁽²⁵⁾ OJ L 159, 1.7.1993, p. 94. Regulation as last amended by Regulation (EC) No 1509/2001 (OJ L 200, 25.7.2001, p. 19).

conversion rates used in the seeds sector⁽²⁶⁾, Commission Regulation (EEC) No 1756/93 of 30 June 1993 fixing the operative events for the agricultural conversion rate applicable to milk and milk products⁽²⁷⁾, Commission Regulation (EEC) No 1759/93 of 1 July 1993 concerning the operative events determining the agricultural conversion rates to be applied in the beef and veal sector⁽²⁸⁾, Commission Regulation (EEC) No 1785/93 of 30 June 1993 on the operative events for the agricultural conversion rates used in the fibre sector⁽²⁹⁾, Commission Regulation (EEC) No 1793/93 of 30 June 1993 regarding the operative event for the agricultural conversion rates used in the hops sector⁽³⁰⁾, Commission Regulation (EC) No 3498/93 of 20 December 1993 determining the operative events applicable specifically to the olive oil sector⁽³¹⁾, Commission Regulation (EC) No 594/2004 of 30 March 2004 determining the operative events applicable to products in the fruit and vegetables sector and to processed fruit and vegetable products⁽³²⁾ and Commission Regulation (EC) No 383/2005 of 7 March 2005 determining the operative events for the exchange rates applicable to the products of the wine sector⁽³³⁾.

(20) Regulations (EEC) Nos 1003/81, 3749/86, 1713/93, 1718/93, 1756/93, 1759/93, 1785/93, 1793/93 and (EC) Nos 3498/93, 594/2004 and 383/2005 should therefore be repealed.

(21) The following regulations should therefore be amended:

— Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products⁽³⁴⁾;

— Commission Regulation (EEC) No 3164/89 of 23 October 1989 laying down detailed rules for the application of special measures in respect of hemp seed⁽³⁵⁾;

— Commission Regulation (EEC) No 3444/90 of 27 November 1990 laying down detailed rules for granting private storage aid for pigmeat⁽³⁶⁾;

— Commission Regulation (EEC) No 3446/90 of 27 November 1990 laying down detailed rules for granting private storage aid for sheepmeat and goatmeat⁽³⁷⁾;

— Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the application of Council Regulations (EEC) No 1766/92 and (EEC) No 1418/76 concerning production refunds in the cereals and rice sectors respectively⁽³⁸⁾;

— Commission Regulation (EEC) No 1858/93 of 9 July 1993 laying down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the aid scheme to compensate for loss of income from marketing in the banana sector⁽³⁹⁾;

— Commission Regulation (EEC) No 2825/93 of 15 October 1993 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards the fixing and granting of adjusted refunds in respect of cereals exported in the form of certain spirit drinks⁽⁴⁰⁾;

— Commission Regulation (EC) No 1905/94 of 27 July 1994 on detailed rules for the application of Council Regulation (EC) No 399/94 concerning specific measures for dried grapes⁽⁴¹⁾;

— Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products⁽⁴²⁾;

— Commission Regulation (EC) No 562/2000 of 15 March 2000 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 as regards the buying-in of beef⁽⁴³⁾;

⁽²⁶⁾ OJ L 159, 1.7.1993, p. 103.

⁽²⁷⁾ OJ L 161, 2.7.1993, p. 48. Regulation as last amended by Regulation (EC) No 569/1999 (OJ L 70, 17.3.1999, p. 12).

⁽²⁸⁾ OJ L 161, 2.7.1993, p. 59.

⁽²⁹⁾ OJ L 163, 6.7.1993, p. 9.

⁽³⁰⁾ OJ L 163, 6.7.1993, p. 22. Regulation as last amended by Regulation (EC) No 1410/1999 (OJ L 164, 30.6.1999, p. 53).

⁽³¹⁾ OJ L 319, 21.12.1993, p. 20.

⁽³²⁾ OJ L 94, 31.3.2004, p. 17.

⁽³³⁾ OJ L 61, 8.3.2005, p. 20.

⁽³⁴⁾ OJ L 205, 3.8.1985, p. 5. Regulation as last amended by Regulation (EC) No 673/2004 (OJ L 105, 14.4.2004, p. 17).

⁽³⁵⁾ OJ L 307, 24.10.1989, p. 22. Regulation as amended by Regulation (EEC) No 3587/92 (OJ L 364, 12.12.1992, p. 26).

⁽³⁶⁾ OJ L 333, 30.11.1990, p. 22. Regulation as last amended by Regulation (EC) No 851/2003 (OJ L 123, 17.5.2003, p. 7).

⁽³⁷⁾ OJ L 333, 30.11.1990, p. 39. Regulation as last amended by Regulation (EC) No 1641/2001 (OJ L 217, 11.8.2001, p. 3).

⁽³⁸⁾ OJ L 159, 1.7.1993, p. 112. Regulation as last amended by Regulation (EC) No 1950/2005 (OJ L 312, 29.11.2005, p. 18).

⁽³⁹⁾ OJ L 170, 13.7.1993, p. 5. Regulation as last amended by Regulation (EC) No 789/2005 (OJ L 132, 26.5.2005, p. 13).

⁽⁴⁰⁾ OJ L 258, 16.10.1993, p. 6. Regulation as last amended by Regulation (EC) No 1633/2000 (OJ L 187, 26.7.2000, p. 29).

⁽⁴¹⁾ OJ L 194, 29.7.1994, p. 21. Regulation as last amended by Regulation (EC) No 94/2002 (OJ L 17, 19.1.2002, p. 20).

⁽⁴²⁾ OJ L 102, 17.4.1999, p. 11. Regulation as last amended by Regulation (EC) No 671/2004 (OJ L 105, 14.4.2004, p. 5).

⁽⁴³⁾ OJ L 68, 16.3.2000, p. 22. Regulation as last amended by Regulation (EC) No 1067/2005 (OJ L 174, 7.7.2005, p. 60).

- Commission Regulation (EC) No 907/2000 of 2 May 2000 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 as regards aid for private storage in the beef and veal sector ⁽⁴⁴⁾;
- Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽⁴⁵⁾;
- Commission Regulation (EC) No 245/2001 of 5 February 2001 laying down detailed rules for the application of Council Regulation (EC) No 1673/2000 on the common organisation of the markets in flax and hemp grown for fibre ⁽⁴⁶⁾;
- Commission Regulation (EC) No 2236/2003 of 23 December 2003 laying down detailed rules for the application of Council Regulation (EC) No 1868/94 establishing a quota system in relation to the production of potato starch ⁽⁴⁷⁾;
- Commission Regulation (EC) No 595/2004 of 30 March 2004 laying down detailed rules for applying Council Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector;
- Commission Regulation (EC) No 917/2004 of 29 April 2004 on detailed rules to implement Council Regulation (EC) No 797/2004 on actions in the field of beekeeping ⁽⁴⁸⁾;
- Commission Regulation (EC) No 382/2005 of 7 March 2005 laying down detailed rules for the application of Council Regulation (EC) No 1786/2003 on the common organisation of the market in dried fodder ⁽⁴⁹⁾;
- Commission Regulation (EC) No 967/2006 of 29 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards sugar production in excess of the quota ⁽⁵⁰⁾.

- (22) Provision should also be made for a transitional period in the sugar sector, as regards the exchange rate applicable to the minimum price for beet, in view of the contracts signed to this end between beet growers and sugar producers for the 2006/07 marketing year which are currently being implemented.

- (23) The measures provided for in this Regulation are in accordance with the opinion of the relevant Management Committees,

HAS ADOPTED THIS REGULATION:

CHAPTER I

OPERATIVE EVENTS FOR THE EXCHANGE RATE

Article 1

Export refunds and trade with third countries

1. For refunds fixed in euro and for prices and amounts expressed in euro in Community agricultural legislation to be applied in trade with third countries, the operative event for the exchange rate shall be the acceptance of the customs declaration.

2. For the purpose of calculating the standard import value of fruit and vegetables referred to in Article 4(1) of Regulation (EC) No 3223/94, in order to determine the entry price referred to in Article 5 of that Regulation, the operative event for the exchange rate for the representative prices used to calculate that standard value and the amount of the reduction referred to in Article 2(3) of Regulation (EC) No 3223/94 shall be the day to which the representative prices relate.

Article 2

Production refunds and specific types of aid

1. For production refunds fixed in euro by Community legislation, the operative event for the exchange rate shall be:

- (a) the date on which it is declared that the products have reached the destination required, as the case may be, by that legislation;
- (b) in cases where no such destination is required, the acceptance of the application for payment of the refund by the paying agency.

2. For processing aid, the operative event for the exchange rate shall be the date on which the products are taken over by the processor, in particular for:

- (a) the aid for processing citrus fruits and fruit and vegetables referred to in Article 3 of Regulation (EC) No 2202/96 and in Articles 2 and 6a(1) of Regulation (EC) No 2201/96 respectively;
- (b) the minimum price referred to in Article 6a(2) of Regulation (EC) No 2201/96.

⁽⁴⁴⁾ OJ L 105, 3.5.2000, p. 6.

⁽⁴⁵⁾ OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 410/2006 (OJ L 71, 10.3.2006, p. 7).

⁽⁴⁶⁾ OJ L 35, 6.2.2001, p. 18. Regulation as last amended by Regulation (EC) No 873/2005 (OJ L 146, 10.6.2005, p. 3).

⁽⁴⁷⁾ OJ L 339, 24.12.2003, p. 45. Regulation as amended by Regulation (EC) No 1950/2005 (OJ L 312, 29.11.2005, p. 18).

⁽⁴⁸⁾ OJ L 163, 30.4.2004, p. 83. Regulation as amended by Regulation (EC) No 1484/2004 (OJ L 273, 21.8.2004, p. 5).

⁽⁴⁹⁾ OJ L 61, 8.3.2005, p. 4. Regulation as amended by Regulation (EC) No 432/2006 (OJ L 79, 16.3.2006, p. 12).

⁽⁵⁰⁾ OJ L 176, 30.6.2006, p. 22.

(c) the minimum price and the premium referred to in Articles 4a and 5 of Regulation (EC) No 1868/94.

3. For the aid for dried fodder referred to in Article 4 of Regulation (EC) No 1786/2003 and the amounts linked to that aid, the operative event for the exchange rate shall be the day on which the dried fodder leaves the processing undertaking.

4. For aid granted by quantity of marketed product or product to be used in a specific way, without prejudice to Articles 4, 5 and 6, the operative event for the exchange rate shall be the first operation which guarantees, after the products are taken over by the operator concerned, the appropriate use of the products in question and entails grant of the aid.

5. For private storage aid the operative event for the exchange rate shall be the first day of the period in respect of which the aid relating to one and the same contract is granted.

6. For aid other than that referred to in paragraphs 2, 3, 4 and 5 of this Article and in Articles 4 and 5, the operative event for the exchange rate shall be the deadline for the submission of applications.

Article 3

Direct payments

For the support schemes listed in Annex I to Regulation (EC) No 1782/2003 and the additional amount of aid referred to in Article 12 of that Regulation, the operative event for the exchange rate shall be the date referred to in Article 45(2) of Regulation (EC) No 1290/2005.

Article 4

Prices, premiums and aid in the wine sector

1. For the premium granted in return for the permanent abandonment of vine-growing referred to in Article 8 of Regulation (EC) No 1493/1999, the operative event for the exchange rate shall be the first day of the wine year in which the application for payment is submitted.

For the prices and aid referred to in Articles 27(9) and (11) and 28(3) and (5) of Regulation (EC) No 1493/1999, the operative event for the exchange rate shall be the first day of the wine year in respect of which the buying-in price is paid.

For the financial allocations for the restructuring and conversion of vineyards provided for in Article 14 of Regulation (EC) No 1493/1999, the operative event of the exchange rate shall be 1 July preceding the financial year for which the financial allocations are fixed.

2. For the prices, aid and crisis distillation measures referred to in Article 29(2) and (4) and Article 30 of Regulation (EC) No 1493/1999 and for the minimum price referred to in Article 69(3) of Commission Regulation (EC) No 1623/2000⁽⁵⁾, the

operative event for the exchange rate shall be the first day of the month in which the first delivery of wine is carried out under a contract.

3. For the aid referred to in Articles 34(1) and 35(1) of Regulation (EC) No 1493/1999, the operative event for the exchange rate shall be the first day of the month in which the first enrichment or processing of wine products is carried out.

Article 5

Amounts and payments in the milk and milk products sector

1. For aid for the use of butter, concentrated butter and cream in pastry products and ice-cream as referred to in Article 1(b)(i) of Regulation (EC) No 1898/2005 and for aid for concentrated butter intended for direct consumption in the Community as referred in Article 1(b)(ii) of that Regulation, the operative event for the exchange rate shall be the day on which the final day for submission of the tender falls.

2. For aid for the purchase of butter by non-profit organisations as referred to Article 1(b)(iii) of Regulation (EC) No 1898/2005, the operative event for the exchange rate shall be the first day of the period for which the voucher provided for in Article 75(1) of that Regulation is valid.

3. For aid for skimmed milk and skimmed-milk powder for use in feedingstuffs as referred to in Article 7(1) of Regulation (EC) No 2799/1999, the operative event for the exchange rate shall be the day on which the skimmed milk or skimmed-milk powder is processed into compound feedingstuff or in which the skimmed-milk powder is denatured.

4. For aid granted for supplying certain milk products to pupils as referred to in Article 1 of Regulation (EC) No 2707/2000, the operative event for the exchange rate shall be the first day of the month of the period to which the aid application referred to in Article 11 of that Regulation relates.

5. For aid for skimmed milk used in the production of casein and caseinates referred to in Article 2(1) of Regulation (EEC) No 2921/90, the operative event for the exchange rate shall be the day of manufacture of the casein and caseinates.

6. For the payment of the levy referred to in Article 1 of Regulation (EC) No 595/2004, for a given twelve-month period within the meaning of Council Regulation (EC) No 1788/2003, the operative event for the exchange rate shall be 1 April following the period concerned.

7. For the transport costs referred to in Article 19(2) of Regulation (EC) No 2771/1999 and in Article 11(2) of Regulation (EC) No 214/2001, the operative event for the exchange rate shall be the day on which the valid offer has been received by the competent authority.

⁽⁵⁾ OJ L 194, 31.7.2000, p. 45.

*Article 6***Minimum price for beet, one-off amount, surplus amount and production charge in the sugar sector**

For the minimum price for beet, the one-off amount levied on the additional sugar quotas and on the supplementary isoglucose quotas, and the surplus amount and the production charge referred to in Articles 5, 8(3), 9(3), 15 and 16 respectively of Regulation (EC) No 318/2006, the operative event for the exchange rate shall be 1 October of the marketing year in respect of which the prices and amounts are applied or paid.

*Article 7***Amounts of a structural or environmental character and overheads of operational programmes**

1. For the amounts referred to in the Annex to Regulation (EC) No 1698/2005, as well as for the amounts relating to measures approved under Regulation (EC) No 1257/1999, for which the payments to beneficiaries are assured by the rural development programmes approved under Regulation (EC) No 1698/2005, the operative event for the exchange rate shall be 1 January of the year in which the decision to grant the aid is taken.

However, where, under Community rules, payment of the amounts referred to in the first subparagraph is staggered over several years, the operative event for the exchange rate for each of the annual instalments shall be 1 January of the year for which the instalment in question is paid.

2. For the lump sums referred to in point 3 of Annex I to Regulation (EC) No 1433/2003, intended to cover overheads specifically related to the operational funds or programmes referred to in Articles 15 and 16 of Regulation (EC) No 2200/96, the operative event for the exchange rate shall be 1 January of the year to which these overheads relate.

*Article 8***Other amounts and prices**

For prices or amounts other than those referred to in Articles 1 to 7, or amounts linked to those prices, expressed in euro in Community legislation, or expressed in euro by a tendering procedure, the operative event for the exchange rate shall be the day on which one of the following legal acts occurs:

- (a) for purchases, when the valid offer has been received or, in the fruit and vegetables sector, when the products are taken over by the storekeeper;
- (b) for sales, when the valid offer has been received or, in the fruit and vegetables sector, when the operator concerned takes over the products;

- (c) for withdrawals of products in the fruit and vegetables sector, the day on which the withdrawal takes place;
- (d) for costs of transport, processing or public storage and for amounts allocated to studies or promotional measures as part of a tendering procedure, the final day for the submission of tenders;
- (e) for the recording of prices, amounts or tenders on the market, the day in respect of which the price, amount or tender is recorded;
- (f) for penalties linked to non-compliance with agricultural legislation, the date of the act of the competent authority which establishes the facts;
- (g) for turnover or amounts relating to production volumes, the start of the reference period laid down by agricultural legislation.

*Article 9***Payment of advances**

For advances, the operative event for the exchange rate shall be the operative event applicable to the price or amount to which the advance relates, where this event has occurred by the time the advance is paid, or, in other cases, the date of setting in euro of the advance or, failing that, the date of payment of the advance.

The operative event for the exchange rate shall be applied to advances without prejudice to the application to the entire price or amount in question of the operative event for that price or amount.

*Article 10***Securities**

For securities, the operative event for the exchange rate shall be the date on which the security is lodged.

However, the following exceptions shall apply:

- (a) for securities relating to advances, the operative event for the exchange rate shall be the operative event as defined for the amount of the advance, where that event has occurred by the time the security is paid;
- (b) for securities relating to the submission of tenders, the operative event for the exchange rate shall be the day on which the tender is submitted;
- (c) for securities relating to the performance of tenders, the operative event for the exchange rate shall be the closing date of the invitation to tender.

CHAPTER II

EXCHANGE RATE

Article 11

Determination of the exchange rate

When an operative event is fixed under Community legislation, the exchange rate to be used shall be the most recent rate set by the European Central Bank (ECB) prior to the first day of the month in which the operative event occurs.

However, in the following cases, the exchange rate to be used shall be:

- (a) for the cases referred to in Article 1(1) in which the operative event for the exchange rate is the acceptance of the customs declaration, the rate referred to in Article 18(1) of Council Regulation (EEC) No 2913/92⁽⁵²⁾;
- (b) for intervention expenditure incurred in the context of public storage operations, the rate resulting from the application of Article 4(2) of Regulation (EC) No 884/2006;
- (c) for the minimum beet price referred to in Article 6, in which the operative event for the exchange rate is 1 October, the average rate established by the European Central Bank (ECB) for the month prior to the operative event.

CHAPTER III

AMENDING AND FINAL PROVISIONS

Article 12

Amendment of Regulation (EEC) No 2220/85

Article 12 of Regulation (EEC) No 2220/85 is replaced by the following:

'Article 12

1. Securities as referred to in Article 1 shall be constituted in euro.

2. Notwithstanding paragraph 1, where the security is accepted in a Member State outside the euro zone, in national currency, the amount of the security in euro shall be converted into that currency in accordance with Article 10 of Commission Regulation (EC) No 1913/2006 (*). The undertaking corresponding to the security and any amount withheld in the event of irregularities or breaches shall remain fixed in euro.

(*) OJ L 365, 21.12.2006, p. 52.'

⁽⁵²⁾ OJ L 302, 19.10.1992, p. 1.

Article 13

Amendment of Regulation (EEC) No 3164/89

Article 4 of Regulation (EEC) No 3164/89 is replaced by the following:

'Article 4

The operative event for the exchange rate applicable to the aid shall be that referred to in Article 2(2) of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.'

Article 14

Amendment of Regulation (EEC) No 3444/90

Article 8 of Regulation (EEC) No 3444/90 is replaced by the following:

'Article 8

The operative events for the exchange rate applicable to the aid and to the securities shall be those referred to in Articles 2(5) and 10 respectively of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.'

Article 15

Amendment of Regulation (EEC) No 3446/90

Article 8 of Regulation (EEC) No 3446/90 is replaced by the following:

'Article 8

The operative events for the exchange rate applicable to the aid and to the securities shall be those referred to in Articles 2(5) and 10 respectively of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.'

Article 16

Amendment of Regulation (EEC) No 1722/93

In the second paragraph of Article 6(4) of Regulation (EEC) No 1722/93, the second sentence is replaced by the following:

'The operative event for the exchange rate applicable to the refund shall be that referred to in Article 2(1) of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.'

*Article 17***Amendment of Regulation (EEC) No 1858/93**

Article 11 of Regulation (EEC) No 1858/93 is replaced by the following:

'Article 11

The operative event for the exchange rate applicable to the compensatory aid shall be that referred to in Article 2(6) of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.'

*Article 18***Amendment of Regulation (EEC) No 2825/93**

Article 6(2) of Regulation (EEC) No 2825/93 is replaced by the following:

'2. The rate of the refund shall be that applicable on the day on which the cereals are placed under control. However, as regards the quantities distilled in each of the fiscal distillation periods following that in which the placing under control occurred, the rate shall be that applicable on the first day of each fiscal distillation period concerned.

The operative event for the exchange rate applicable to the refund shall be that referred to in Article 1(1) of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.'

*Article 19***Amendment of Regulation (EC) No 1905/94**

Article 11(8) of Regulation (EC) No 1905/94 is replaced by the following:

'8. For the amounts fixed within the framework of the measures referred to in Articles 3, 4 and 5, the operative event for the exchange rate shall be that referred to in Article 2(6) of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.'

*Article 20***Amendment of Regulation (EC) No 800/1999**

In Article 6, the last subparagraph, and in Article 37(2) of Regulation (EC) No 800/1999, the second subparagraph is replaced by the following:

'The operative event for the exchange rate applicable to the refund shall be that referred to in Article 1(1) of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.'

*Article 21***Amendment of Regulation (EC) No 562/2000**

Article 19 of Regulation (EC) No 562/2000 is replaced by the following:

*'Article 19***Exchange rate**

The operative event for the exchange rate applicable to the amount and to the prices referred to in Article 14 and to the security referred to in Article 12 shall be those referred to in point (a) of Article 8 and in Article 10 respectively of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.'

*Article 22***Amendment of Regulation (EC) No 907/2000**

Article 13 of Regulation (EC) No 907/2000 is replaced by the following:

'Article 13

The operative events for the exchange rate applicable to the aid and to the securities shall be those referred to in Articles 2(5) and 10 respectively of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.'

*Article 23***Amendment of Regulation (EC) No 1291/2000**

The second subparagraph of Article 15(2) of Regulation (EC) No 1291/2000 is deleted.

*Article 24***Amendment of Regulation (EC) No 245/2001**

Article 16 of Regulation (EC) No 245/2001 is replaced by the following:

*'Article 16***Operative event**

For each period as referred to in Article 6(2), the operative event for the exchange rate for the euro for the purposes of converting the advance and the processing aid for the quantity concerned shall be that referred to in Article 2(6) of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.'

*Article 25***Amendment of Regulation (EC) No 2236/2003**

Article 20 of Regulation (EC) No 2236/2003 is deleted.

*Article 26***Amendment of Regulation (EC) No 595/2004**

Article 14 of Regulation (EC) No 595/2004 is replaced by the following:

‘Article 14

The operative event for the exchange rate applicable to the payment of the levy referred to in Article 1 of Regulation (EC) No 595/2004 shall be that referred to in Article 5(6) of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.’

*Article 27***Amendment of Regulation (EC) No 917/2004**

Article 8 of Regulation (EC) No 917/2004 is replaced by the following:

‘Article 8

For the amount referred to in Article 3 the operative event for the exchange rate shall be the same as that referred to in the first subparagraph of Article 7(1) of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.’

*Article 28***Amendment of Regulation (EC) No 382/2005**

Article 22 of Regulation (EC) No 382/2005 is deleted.

*Article 29***Amendment of Regulation (EC) No 967/2006**

Article 20 of Regulation (EC) No 967/2006 is deleted.

*Article 30***Repeal**

Regulations (EEC) Nos 1003/81, 3749/86, 1713/93, 1718/93, 1756/93, 1759/93, 1785/93, 1793/93 and (EC) Nos 3498/93, 2808/98, 594/2004 and 383/2005 are hereby repealed.

References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex to this Regulation.

*Article 31***Transitional rule in the sugar sector**

In the case of the conversion of the minimum price for beet referred to in Article 5 of Regulation (EC) No 318/2006 into national currencies in countries outside the euro zone, the arrangements applying in the 2006/07 marketing year shall be those laid down in Article 1 of Regulation (EC) No 1713/93.

*Article 32***Entry into force**

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

It shall apply from 1 January 2007.

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

Done at Brussels, 20 December 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

CORRELATION TABLE

Regulation (EEC) No 1003/81	
Article 1	Article 8
Regulation (EEC) No 3749/86	
Article 1	Article 8
Regulation (EEC) No 1713/93	
Article 1	Article 6
Annex I.I	Point (a) of Article 8
Annex I.II	Point (b) of Article 8
Annex I.III	—
Annex I.IV	—
Annex I.V	—
Annex I.VI	—
Annex I.VII	—
Annex I.VIII	—
Annex I.IX	—
Annex I.X	—
Annex I.XII	—
Annex I.XIII	—
Annex I.XIV	Article 1
Annex I.XV	Article 10
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Regulation (EEC) No 1718/93	
Article 1	Article 3
Regulation (EEC) No 1756/93	
Article 1(1)	Article 2(5)
Article 1(2)	Article 10
Article 1(3)	Article 5
Annex, Part B.III.1	Article 5(1)
Annex, Part B.III.5.A	Article 5(2)
Annex, Part C.III.3	Article 5(3)
Annex, Part D.4	Article 5(4)
Annex, Part D.6	Article 5(5)
Regulation (EEC) No 1759/93	
Article 1(1)	Point (a) of Article 8
Article 1(2), (4), (5), (6) and (7)	Article 10
Article 1(3)	Point (b) of Article 8
Regulation (EEC) No 1785/93	
Article 1	Article 3
Regulation (EEC) No 1793/93	
Article 1	Article 3

Regulation (EC) No 3498/93	
Article 1	Article 3
Article 2	Article 3
Article 3	Article 2
Regulation (EC) No 2808/98	The present Regulation
Article 1	Article 11
Article 2	Article 1(1)
Article 3(1)	Points (a), (b) and (c) of Article 8
Article 3(2)	Article 2(4)
Article 3(3)	Article 2(5)
Article 4(1)	Article 3
Article 4(2)	Article 7
Article 4(3)	—
Article 5(1)	Point (d) of Article 8
Article 5(2)	Point (e) of Article 8
Article 5(3)	Article 9
Article 5(4)	Article 10
Articles 6 to 15	—
Regulation (EC) No 594/2004	
Article 2	Article 7(2)
Article 3(1)	Point (c) of Article 8
Article 3(2)	Article 7(2)
Article 4	Point (c) of Article 8
Article 5(1)	Article 1(2)
Article 5(2)	Article 1(2)
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Article 6	Article 1(1)
Article 7	Article 2(2)
Article 8(1)	Point (a) of Article 8
Article 8(2)	Article 2(5)
Article 8(3)	Point (b) of Article 8
Article 8(4)	Article 10(b)
Article 9	Article 1(1)
Article 10	Article 2(2)
Regulation (EC) No 383/2005	
Article 1	Article 4(1)
Article 2(1)	Article 4(1)
Article 2(2)	Article 4(1)
Article 2(3)	Article 4(2)
Article 2(4)	Article 4(2)
Article 2(5)	Article 4(2)
Article 2(6)	Article 4(3)
Article 2(7)	Article 4(3)

COMMISSION REGULATION (EC) No 1914/2006**of 20 December 2006****laying down detailed rules for applying Council Regulation (EC) No 1405/2006 laying down specific measures for agriculture in favour of the smaller Aegean islands**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1405/2006 of 18 September 2006 laying down specific measures for agriculture in favour of the smaller Aegean islands and amending Regulation (EC) No 1782/2003⁽¹⁾, and in particular Article 14 thereof,

Whereas:

- (1) In view of the changes introduced by Regulation (EC) No 1405/2006 and the experience gained, and in the interests of legislative simplification, Commission Regulations (EEC) No 2837/93 of 18 October 1993 laying down detailed rules for the application of Council Regulation (EEC) No 2019/93 with regard to the maintenance of olive groves in traditional olive-growing areas⁽²⁾, (EEC) No 2958/93 of 27 October 1993 laying down detailed rules for the application of Council Regulation (EEC) No 2019/93 as regards the specific arrangements for the supply of certain agricultural products⁽³⁾, (EC) No 3063/93 of 5 November 1993 laying down detailed rules for the application of Council Regulation (EEC) No 2019/93 with regard to the aid scheme for the production of honey of specific quality⁽⁴⁾, (EC) No 3175/94 of 21 December 1994 laying down detailed rules of application for the specific arrangements for the supply of cereal products to the smaller Aegean islands and establishing the forecast supply balance⁽⁵⁾, (EC) No 1517/2002 of 23 August 2002 laying down detailed rules for the application of Council Regulation (EEC) No 2019/93 introducing specific measures for the smaller Aegean islands, as regards the cultivation of

certain agricultural products, potatoes for human consumption and seed potatoes⁽⁶⁾, (EC) No 1999/2002 of 8 November 2002 laying down detailed rules for the application of Council Regulation (EEC) No 2019/93 as regards the specific aid arrangements for the smaller Aegean Islands in respect of vineyards⁽⁷⁾, and (EC) No 2084/2004 of 6 December 2004 derogating from Regulation (EEC) No 2837/93 as regards the period for paying the aid to maintain olive groves in traditional olive-growing areas in the smaller Aegean islands⁽⁸⁾, should be repealed and replaced by a single Regulation laying down rules for applying Regulation (EC) No 1405/2006.

- (2) Detailed implementing rules should be laid down for the specific supply arrangements and the measures to assist local agricultural products, both provided for in Regulation (EC) No 1405/2006.
- (3) Detailed rules should be laid down for fixing the amount of the aid for the supply of products under the specific supply arrangements. Such rules should take account of the additional costs of supply to the smaller Aegean islands due to their remote and insular nature, which constitute a burden that severely handicaps them.
- (4) The aid scheme for the supply of products under the specific supply arrangements should be managed by means of a certificate, called an 'aid certificate', using the import licence form.
- (5) Management of the specific supply arrangements requires the introduction of detailed rules on the issue of the aid certificate which derogate from the normal rules applicable to import licences under Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽⁹⁾.

⁽¹⁾ OJ L 265, 26.9.2006, p. 1.

⁽²⁾ OJ L 260, 19.10.1993, p. 5. Regulation as last amended by Regulation (EC) No 2384/2002 (OJ L 358, 31.12.2002, p. 124).

⁽³⁾ OJ L 267, 28.10.1993, p. 4. Regulation as last amended by Regulation (EC) No 1820/2002 (OJ L 276, 12.10.2002, p. 22).

⁽⁴⁾ OJ L 274, 6.11.1993, p. 5. Regulation as last amended by Regulation (EC) No 780/2002 (OJ L 123, 9.5.2002, p. 32).

⁽⁵⁾ OJ L 335, 23.12.1994, p. 54. Regulation as last amended by Regulation (EC) No 2119/2005 (OJ L 340, 23.12.2005, p. 20).

⁽⁶⁾ OJ L 228, 24.8.2002, p. 12.

⁽⁷⁾ OJ L 308, 9.11.2002, p. 11.

⁽⁸⁾ OJ L 360, 7.12.2004, p. 19.

⁽⁹⁾ OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 410/2006 (OJ L 71, 10.3.2006, p. 7).

- (6) Management of the specific supply arrangements must allow two objectives to be pursued. First, it should promote the rapid issue of certificates, particularly by no longer requiring a security to be lodged beforehand in all cases, and the rapid payment of aid for supplies of products. Second, it should guarantee the control and monitoring of operations and provide the administrative authorities with the instruments they need to ascertain that the objectives of the scheme are being attained, those being to secure a regular supply of certain agricultural products and to offset the effects of the geographical situation of the smaller Aegean islands by ensuring that the advantages of the scheme are actually passed on to the stage at which the products destined for the end-users are placed on the market.
- (7) One of those instruments consists in registering operators pursuing an economic activity under the specific supply arrangements. Registered operators are entitled to benefit from the arrangements, provided they meet the obligations laid down in the Community and national rules. Applicants should be entitled to registration provided that they meet a certain number of objective requirements designed to facilitate administration of the scheme.
- (8) The detailed rules for the administration of the specific supply arrangements must ensure that, within the framework of the quantities laid down in the forecast supply balances, registered operators obtain a certificate for the products and quantities involved in the commercial transactions which they carry out on their own account, on presentation of documents certifying that the operation is genuine and that the application for a certificate is in order.
- (9) Monitoring of operations qualifying under the specific supply arrangements requires, *inter alia*, proof to be furnished that the supply operation covered by the certificate has been carried out in a short time-span, and the transfer of the rights and obligations conferred on the holder of the certificate in question to be prohibited.
- (10) The benefits granted in the form of Community aid must be passed on so that they are reflected in production costs and in the prices paid by the end-users. Checks are therefore needed to ensure that the benefits are actually passed on.
- (11) Regulation (EC) No 1405/2006 lays down that products covered by the specific supply arrangements may be exported to third countries or dispatched to the rest of the Community only under certain conditions to be set up. Detailed rules should be laid down accordingly. In particular, it is expedient to lay down the maximum quantities of processed products which may be the subject of traditional exports or consignments.
- (12) In order to protect consumers and the commercial interests of operators, products which are not of sound and fair marketable quality, within the meaning of Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products⁽¹⁰⁾, should be excluded from the specific supply arrangements no later than the time when they are first placed on the market and appropriate steps should be taken where this requirement is not met.
- (13) The competent authorities should lay down the detailed administrative rules needed to ensure the management and monitoring of the specific supply arrangements. Moreover, to ensure that the arrangements are properly monitored, rules are needed to specify the checks to be carried out. Administrative penalties to ensure the smooth functioning of the mechanisms implemented should therefore be specified.
- (14) In order to be able to assess how the arrangements are being implemented, the competent authorities should be required to report to the Commission at regular intervals.
- (15) The coverage of aid applications and the documents to be attached with a view to assessing their justification should be specified for each aid scheme directed at local production.
- (16) It should be possible to amend at any time aid applications containing manifest errors.
- (17) The deadlines for submitting and amending aid applications must be complied with to enable the national authorities to programme and subsequently carry out effective checks on the correctness of applications for aid for local production. Time limits should therefore be fixed beyond which submissions can no longer be accepted. Moreover, a reduction should be applied to encourage beneficiaries to respect the time limits.
- (18) Beneficiaries should be allowed to withdraw their applications for aid for local production or parts thereof at any time provided that the competent authority has not yet informed the beneficiary grower of any errors contained in the aid application or announced an on-the-spot check which reveals errors in the part concerned by the withdrawal.
- (19) Compliance with the rules on aid schemes managed under the integrated administration and control system should be effectively monitored. To this end, the criteria and technical procedures for carrying out administrative and on-the-spot checks should be set out in detail. Where appropriate, Greece should strive to combine the various checks under this Regulation with those provided for under other Community provisions.

⁽¹⁰⁾ OJ L 102, 17.4.1999, p. 11. Regulation as last amended by Regulation (EC) No 671/2004 (OJ L 105, 14.4.2004, p. 5).

- (20) The minimum number of beneficiaries to undergo on-the-spot checks under the various aid schemes should be determined.
- (21) The sample for the minimum rate of on-the-spot checks should be selected partly on the basis of a risk analysis and partly at random. The main factors to be taken into consideration for the risk analysis should be specified.
- (22) Where significant irregularities are found, the rate of on-the-spot checks should be increased during the current and following years in order to attain an acceptable level of assurance that the aid applications concerned are correct.
- (23) For on-the-spot checks to be effective it is important for the inspectors to be informed of the reasons why the beneficiaries concerned have been selected for an on-the-spot check. Greece should keep records of such information.
- (24) In order to enable the national authorities and any competent Community authority to follow up on-the-spot checks carried out, the details of checks should be recorded in an inspection report. Beneficiaries or their representatives should be given the opportunity to sign the report. However, in the case of remote-sensing checks, Greece should be allowed to provide for this right only in cases where the check reveals irregularities. Moreover, irrespective of the kind of on-the-spot check carried out, the beneficiary should receive a copy of the report if irregularities are found.
- (25) To protect the Community's financial interests effectively, adequate measures should be adopted to combat irregularities and fraud.
- (26) Reductions and exclusions should be determined having regard to the principle of proportionality and the special problems arising in cases of *force majeure*, exceptional circumstances and natural disasters. Such reductions and exclusions should be graded according to the gravity of the irregularity committed and should go as far as the total exclusion from one or more aid schemes for local production for a specified period.
- (27) As a general rule, reductions and exclusions should not be applied where beneficiaries have submitted factually correct information or can otherwise show that they are not at fault.
- (28) Beneficiaries who notify the competent national authorities at any time of incorrect aid applications should not be the subject of reductions or exclusions, irrespective of the reason for the incorrectness, provided the beneficiary grower concerned has not been informed of the competent authority's intention to carry out an on-the-spot check and provided the authority has not already informed the beneficiary of any irregularity in the application.
- (29) Reductions and exclusions provided for under this Regulation should be applied without prejudice to additional penalties under any other provisions of national law.
- (30) Beneficiaries who are unable to fulfil the obligations provided for under the detailed rules for implementing the programmes as a consequence of *force majeure* or exceptional circumstances should not lose their entitlement to the aid.
- (31) In order to ensure uniform application of the principle of good faith throughout the Community, where unduly paid amounts are recovered, the conditions under which that principle may be invoked should be laid down without prejudice to the treatment of the expenditure concerned in the context of the clearance of accounts.
- (32) As a general rule, Greece should take any further measures necessary to ensure that this Regulation is properly implemented.
- (33) Where appropriate, the Commission should be informed of any measures taken by Greece to implement the aid schemes provided for in this Regulation. In order to enable the Commission to monitor effectively, Greece should regularly send it certain statistics on the aid schemes.
- (34) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,
- HAS ADOPTED THIS REGULATION:
- TITLE I
- SCOPE AND DEFINITIONS**
- Article 1*
- Scope**
- This Regulation lays down detailed rules for implementing Regulation (EC) No 1405/2006, particularly as regards the programme relating to specific supply arrangements for the smaller Aegean islands as provided for in Chapter II of that Regulation and measures to support local production in those islands as provided for in Chapter III of that Regulation.
- Article 2*
- Definitions**
- For the purposes of this Regulation:
- (a) 'smaller islands' means any islands in the Aegean Sea except the islands of Crete and Evia;

- (b) 'competent authorities' means the authorities appointed by Greece to implement this Regulation;
- (c) 'programme' means the support programme referred to in Article 13 of Regulation (EC) No 1405/2006.

TITLE II

SPECIFIC SUPPLY ARRANGEMENTS

CHAPTER I

Forecast supply balance

Article 3

Fixing and granting of aid

1. For the purposes of applying Article 3(2) of Regulation (EC) No 1405/2006, Greece shall determine within the context of the programme the amount of the aid to be granted in order to compensate for remoteness, insularity and distant location, taking into account:

- (a) the specific needs of the smaller islands and the precise quality requirements;
- (b) traditional trade flows with ports in mainland Greece and between the islands in the Aegean Sea;
- (c) the economic aspect of the proposed aid;
- (d) where applicable, the need not to obstruct the potential development of local products;
- (e) as regards specific additional transport costs, the intermediate reloading costs involved in supplying goods to the smaller islands;
- (f) as regards the specific additional costs involved in local processing, the small size of the market and the need to guarantee security of supply for goods in the smaller islands concerned.

2. No aid shall be granted for the supply of products in a smaller island which has already benefited from the specific supply arrangements in another smaller island.

CHAPTER II

Aid certificate, payment, register, end user, quality and securities

Article 4

Aid certificate and payment

1. The aid provided for in Article 4(1) of Regulation (EC) No 1405/2006 shall be paid on presentation of a certificate, hereinafter referred to as an 'aid certificate', which has been fully utilised and is accompanied by the purchase invoice and the original or a certified copy of the bill of lading or airway bill.

Presenting an aid certificate to the competent authorities shall be tantamount to applying for the aid. Except in cases of *force majeure* or climatic aberrations, certificates must be presented within 30 days of the date on which they are charged. Where that time limit is overrun, the aid shall be reduced by 5 % per day of delay.

The aid shall be paid by the competent authorities not later than 90 days after the date on which the utilised aid certificate is lodged, except in one of the following cases:

- (a) *force majeure* or climatic aberration;
- (b) where an administrative enquiry has been opened concerning entitlement to the aid; in such cases, payment shall take place only after entitlement has been recognised.

2. Aid certificates shall be drawn up on the basis of the specimen of import licence set out in Annex I to Regulation (EC) No 1291/2000.

Articles 8(5), 13, 15, 17, 18, 21, 23, 26, 27, 29 to 33 and 36 to 41 of Regulation (EC) No 1291/2000 shall apply, *mutatis mutandis*, without prejudice to this Regulation.

3. The entry 'aid certificate' shall be printed or stamped in box 20 (special particulars) of the certificate.

4. Boxes 7 and 8 of the certificate shall be struck out.

5. Box 12 of aid certificates shall show the last day of validity.

6. The amount of the aid applicable shall be that in force on the day on which the application for the aid certificate was lodged.

7. The competent authority shall issue aid certificates at the request of the parties concerned, subject to the limits of the forecast supply balances.

Article 5

Passing on the advantage to the end-user

1. For the purposes of applying this Title:

- (a) the 'advantage' referred to in Article 4(3) of Regulation (EC) No 1405/2006 means the grant of Community aid provided for in that Regulation;

(b) 'end-user' means

- (i) in the case of products for direct consumption: the consumer,

- (ii) in the case of products for the processing or packaging industry which are intended for human consumption: the final processor or packager,
- (iii) in the case of products for the processing or packaging industry for use as animal feed and products for use as agricultural inputs: the farmer.

2. The competent authorities shall take all appropriate steps to check that the advantage is actually passed on to the end-user. In doing so they may assess the trading margins and prices applied by the various operators concerned.

The measures referred to in the first subparagraph, and in particular the control points used to determine whether the aid has been passed on, and any amendments made, shall be notified to the Commission in the context of the report provided for in Article 33.

Article 6

Register of operators

1. Aid certificates shall be issued only to operators entered in a register kept by the competent authorities (hereinafter referred to as 'the register').

2. Any operator established in the Community may apply to be entered in the register.

Entry in the register shall be subject to the following conditions:

- (a) operators shall possess the means, structures and legal authorisations required to carry on their activities and shall, in particular, have duly complied with their obligations regarding business accounting as appropriate and taxation;
- (b) operators shall be able to guarantee that their activities are carried on in the smaller islands;
- (c) in the context of the specific supply arrangements for the smaller islands, and in compliance with the objectives of those arrangements, operators shall undertake to:
 - (i) communicate to the competent authorities, at their request, all relevant information about their commercial activities, particularly regarding the prices and profit margins they practise,
 - (ii) operate exclusively in their own name and on their own account,
 - (iii) submit certificate applications commensurate with their real capacity to dispose of the products concerned, such capacity being proven by reference to objective factors,

(iv) refrain from acting in any way likely to create artificial shortages of products and from marketing the available products at artificially low prices,

(v) ensure to the satisfaction of the competent authorities that, when the agricultural products are disposed of in the smaller islands, the advantage is passed on to the end-user.

3. Operators intending to dispatch to the rest of the Community or export to third countries processed or unprocessed products under the conditions referred to in Article 13 shall, at the time of applying for entry in the register or later, declare their intention to engage in this activity and indicate the location of the packaging plant where applicable.

4. Processors intending to export to third countries or dispatch to the Community processed products under the conditions referred to in Article 13 or 14 shall, at the time of applying for entry in the register or later, declare their intention to engage in this activity, indicate the location of the processing plant and, where applicable, provide analytical lists of the processed products.

Article 7

Documents to be presented by operators and validity of aid certificates

1. The competent authorities shall accept the aid-certificate application presented by operators for each consignment, provided that they are accompanied by the original or a certified copy of the purchase invoice.

The purchase invoice, bill of lading or airway bill must be drawn up in the name of the applicant.

2. The period of validity of certificates shall be 45 days. The validity period may be extended by the competent authority in special cases where serious and unforeseeable difficulties affect the transportation time, but may not exceed two months from the date on which the certificate was issued.

Article 8

Presentation of certificates and goods; non-transferability of certificates

1. For products covered by the specific supply arrangements aid certificates shall be presented to the designated authorities within no more than 15 working days from the date of unloading the goods. The competent authorities may reduce this maximum time.

2. The goods shall be presented in bulk or in separate lots corresponding to the certificate presented.

3. Aid certificates shall not be transferable.

Article 9

Quality of products

Only products of sound and fair marketable quality, within the meaning of Article 21(1) of Regulation (EC) No 800/1999, may qualify for the specific supply arrangements.

Conformity of the products with the requirements laid down in the first paragraph shall be examined no later than the stage of first marketing, in accordance with the standards or practices in force in the Community.

Where a product is considered not to meet the requirements laid down in the first paragraph, the entitlement under the specific supply arrangements shall be withdrawn and the corresponding quantity shall be reattributed to the forecast supply balance. Where aid has been granted in accordance with Article 4, the aid shall be reimbursed.

Article 10

Lodging of security

No security shall be required when applying for aid certificates.

However, in special cases and to the extent necessary to ensure the proper application of this Regulation, the competent authorities may require a security to be lodged equal to the amount of the advantage accorded. In such cases, Article 35(1) and (4) of Regulation (EC) No 1291/2000 shall apply.

Article 11

Significant increases in applications for aid certificates

1. If the state of execution of a forecast supply balance indicates a significant increase in applications for aid certificates for a given product which might jeopardise achievement of one or more of the objectives of the specific supply arrangements, Greece shall take all necessary steps to ensure that the smaller islands are supplied with essential products, taking account of available supply and the requirements of the priority sectors.

2. In the event of restrictions on the issue of certificates, the competent authorities shall apply to all pending applications a uniform reduction percentage.

Article 12

Fixing a maximum quantity per certificate application

Insofar as is strictly necessary to avoid disturbances on the market in the smaller islands, or the pursuit of speculative actions likely to be prejudicial to the smooth functioning of the specific supply arrangements, the competent authorities shall fix a maximum quantity per certificate application.

The competent authorities shall notify the Commission immediately of the instances in which this Article is applied.

CHAPTER III

Export to third countries and dispatch to the rest of the Community

Article 13

Conditions of export or dispatch

1. The export and dispatch of unprocessed products which have benefited from the specific supply arrangements, or packaged or processed products containing products which have benefited from the specific supply arrangements, shall be subject to the requirements laid down in paragraphs 2 to 3.

2. Quantities of products which have benefited from aid and are exported or dispatched shall be reattributed to the forecast supply balance and the aid granted shall be reimbursed by the exporter or consignor by the time of export or dispatch at the latest.

Those products may not be dispatched or exported until the reimbursement referred to in the first subparagraph has been made.

Where it is impossible to establish the amount of aid granted, the products shall be considered to have received the highest rate of aid fixed by the Community for such products during the six-month period preceding the submission of the application for export or dispatch.

Such products may benefit from an export refund, provided that the criteria for granting such a refund are met.

3. The competent authorities shall authorise the export or dispatch of quantities of processed products other than those referred to in paragraph 2 and in Article 14 only where the processor or exporter certifies that the products concerned do not contain raw materials introduced under the specific supply arrangements.

The competent authorities shall authorise the re-export or re-dispatch of unprocessed products or packaged products other than those referred to in paragraph 2 only where the consignor certifies that those products have not benefited from specific supply arrangements.

The competent authorities shall carry out the necessary checks to ensure the accuracy of the certificates referred to in the first and second subparagraphs and shall, if necessary, recover the advantage.

*Article 14***Traditional exports and traditional dispatches of processed products**

1. Processors who have declared, in accordance with Article 6(4), that they intend to export in the context of traditional trade flows or to dispatch in the context of traditional trade flows, as referred to in Article 5(2) of Regulation (EC) No 1405/2006, processed products containing raw materials which have benefited from specific supply arrangements may do so within the limits of the annual quantities indicated in the approved programme and presented in accordance with the specimen set out in the Annex to this Regulation. The competent authorities shall deliver the requisite authorisations in such a way as to ensure that transactions do not exceed those annual quantities.

2. The export of products referred to in this Article shall not be subject to the presentation of an export licence.

*CHAPTER IV***Checks and penalties***Article 15***Checks**

1. The administrative checks carried out on the, entry, export and dispatch of agricultural products shall be exhaustive and shall involve cross-checks with the documents referred to in Article 7(1).

2. The physical checks carried out in the smaller islands on the, entry, export and dispatch of agricultural products shall involve a representative sample amounting to at least 5 % of the certificates presented in accordance with Article 8.

Physical checks shall be carried out, *mutatis mutandis*, in accordance with the procedures laid down in Council Regulation (EEC) No 386/90 ⁽¹¹⁾.

In special cases the Commission may request that physical checks cover different percentages.

*Article 16***Penalties**

1. Except in cases of *force majeure* or climatic aberrations, if an operator fails to comply with the requirements of Article 6, and without prejudice to any penalties applicable under national law, the competent authorities shall:

(a) recover the advantage granted from the holder of the aid certificate;

(b) temporarily suspend or revoke the operator's registration, depending on the seriousness of the infringement.

The advantage referred to in point (a) shall be equal to the amount of the aid determined in accordance with Article 13(2).

2. Except in cases of *force majeure* or climatic aberrations, where holders of a certificate do not carry out the planned entry, their entitlement to apply for certificates shall be suspended for a period of 60 days following expiry of that certificate. After the suspension period, the issue of subsequent certificates shall be subject to the lodging of a security equal to the amount of the advantage to be granted during a period to be determined by the competent authorities.

3. The competent authorities shall adopt the measures required to reutilise any quantities of products made available as a result of non-execution, partial execution or cancellation of the certificates issued or recovery of the advantage.

*CHAPTER V***National provisions***Article 17***National management and monitoring rules**

The competent authorities shall adopt the additional rules needed to manage and monitor the specific supply arrangements in real time.

They shall notify the Commission of any measures they intend to implement pursuant to the first paragraph, prior to the entry into force of those measures.

*TITLE III***MEASURES TO ASSIST LOCAL PRODUCTS***CHAPTER I***Aid to assist local products***Article 18***Amount of aid**

1. The amount of aid granted under the measures to assist local agricultural production as provided for in Chapter III of Regulation (EC) No 1405/2006 shall be within the ceilings fixed in Article 12 of that Regulation.

2. The conditions for granting aid, the lines of agricultural production and the amounts concerned shall be specified in the programme approved in accordance with Article 13(2) of Regulation (EC) No 1405/2006.

⁽¹¹⁾ OJ L 42, 16.2.1990, p. 6.

CHAPTER II

Aid applications and aid payment

Article 19

Submission of applications

Aid applications for a calendar year shall be submitted to the office designated by the competent authorities of Greece in accordance with the specimens drawn up by the latter and within the periods they have laid down. Those periods shall be fixed so as to allow time for the necessary on-the-spot checks and shall not run beyond 28 February of the following calendar year.

Article 20

Correction of manifest errors

An aid application may be rectified at any time after its submission where a manifest error is recognised by the competent authority.

Article 21

Late submission of applications

Except in cases of *force majeure* and exceptional circumstances, submission of an aid application after the time limit laid down in accordance with Article 19 shall lead to a 1 % reduction per working day in the amounts to which the beneficiary would have been entitled if the aid application had been lodged within the time limit. If the delay amounts to more than 25 calendar days, the application shall be considered inadmissible.

Article 22

Withdrawal of aid applications

1. An aid application may be totally or partially withdrawn at any time.

However, where the competent authority has already informed the beneficiary of irregularities in the aid application or has given notice to the beneficiary of its intention to carry out an on-the-spot check and this check reveals irregularities, withdrawal shall not be authorised in respect of the parts of the aid application affected by those irregularities.

2. Withdrawal under paragraph 1 shall return the claimant to the situation prior to submitting the aid application or part of the aid application in question.

3. No later than 31 March of each year an analysis of aid applications withdrawn for the previous calendar year should be carried out to identify the main causes and potential trends at local level.

Article 23

Aid payments

After verifying the aid applications and relevant supporting documents, and calculating the amounts to be granted under the support measures provided for in Article 7 of Regulation (EC) No 1405/2006, the competent authorities shall pay the aid for a calendar year during the period:

- in the case of direct payments, in accordance with Article 28 of Council Regulation (EC) No 1782/2003 ⁽¹²⁾, and
- in the case of other payments, during the period beginning on 16 October of the current year and ending on 30 June of the following year.

CHAPTER III

Checks

Article 24

General principles

Verification shall be by administrative and on-the-spot checks.

Administrative checks shall be exhaustive and shall include cross-checks with, *inter alia*, data from the integrated administration and control system provided for in Chapter 4 of Title II of Regulation (EC) No 1782/2003.

On the basis of a risk analysis in accordance with Article 26(1), the competent authorities shall perform on-the-spot checks by sampling at least 5 % of aid applications. The sample must also represent at least 5 % of the amounts covered by the aid.

In all appropriate cases, Greece shall make use of the integrated administration and control system.

Article 25

On-the-spot checks

1. On-the-spot checks shall be unannounced. However, provided that the purpose of the check is not compromised, advance notice limited to the strict minimum necessary may be given. Such notice shall not exceed 48 hours, except in duly justified cases.

2. Where applicable, the on-the-spot checks provided for in this Chapter shall be carried out in conjunction with any other checks provided for by Community legislation.

3. The aid application or applications concerned shall be rejected if beneficiaries or their representatives prevent an on-the-spot check from being carried out.

⁽¹²⁾ OJ L 270, 21.10.2003, p. 1.

Article 26

Selection of beneficiaries to be subjected to on-the-spot checks

1. Beneficiaries shall be selected to undergo on-the-spot checks by the competent authority on the basis of a risk analysis and the representativeness of the aid applications submitted. The risk analysis shall, as appropriate, take account of:

- (a) the amount of aid;
- (b) the number of agricultural parcels and the surface area covered by the aid application, or the quantity produced, transported, processed or marketed;
- (c) changes on the previous year;
- (d) the findings of checks performed in the preceding years;
- (e) other parameters to be defined by Greece.

To provide the element of representativeness, Greece shall randomly select between 20 % and 25 % of the minimum number of beneficiaries to be subjected to on-the-spot checks.

2. The competent authority shall keep records of the reasons why specific beneficiaries were selected for on-the-spot checks. The inspector performing the on-the-spot check shall be informed of those reasons before beginning the check.

Article 27

Inspection report

1. Every on-the-spot check shall be the subject of an inspection report relating the details of the checks carried out. Reports shall indicate in particular:

- (a) the aid schemes and applications checked;
- (b) the persons present;
- (c) the agricultural parcels checked, the agricultural parcels measured, the results of the measurements per parcel measured and the measuring methods used;
- (d) the quantities produced, transported, processed or marketed which are covered by the check;
- (e) whether advance notice was given to the beneficiary of the visit and, if so, how much;
- (f) any further control measures carried out.

2. Beneficiaries or their representatives shall be given the opportunity to sign the report to attest their presence at the check and to add observations. Where irregularities are found the beneficiary shall receive a copy of the inspection report.

Where the on-the-spot check is carried out by remote-sensing, Greece may decide not to give the beneficiaries or their representatives the opportunity to sign the inspection report if no irregularities are revealed during the check by remote-sensing.

CHAPTER IV

Reductions and exclusions, and undue payments

Article 28

Reductions and exclusions

In the event of a discrepancy between the information declared in the context of aid applications and the findings of the inspections referred to in Chapter III, Greece shall apply reductions and exclusions to the aid. Those reductions and exclusions shall be effective and proportionate and shall act as a deterrent.

Article 29

Exceptions to the application of reductions and exclusions

1. The reductions and exclusions provided for in Article 28 shall not apply where the beneficiary submitted factually correct information or can otherwise show that he or she is not at fault.

2. The reductions and exclusions shall not apply with regard to those parts of the aid application which the beneficiary informs the competent authority in writing are incorrect or have become incorrect since it was lodged, provided that the competent authority has not already informed the beneficiary of its intention to carry out an on-the-spot check or of any irregularity in the application.

On the basis of the information given by the beneficiary as referred to in the first subparagraph, the aid application shall be rectified to reflect the actual situation.

Article 30

Recovery of undue payments and penalties

1. In the event of undue payment, Article 73 of Commission Regulation (EC) No 796/2004⁽¹³⁾ shall apply *mutatis mutandis*.

2. Where the undue payment has been made as a result of a false declaration, false documents or serious negligence on the part of the beneficiary, a penalty shall be imposed equal to the amount unduly paid, with interest calculated in accordance with Article 73(3) of Regulation (EC) No 796/2004.

⁽¹³⁾ OJ L 141, 30.4.2004, p. 18.

Article 31

Force majeure and exceptional circumstances

Cases of *force majeure* or exceptional circumstances within the meaning of Article 40(4) of Regulation (EC) No 1782/2003 shall be notified to the competent authority in accordance with Article 72 of Regulation (EC) No 796/2004.

TITLE IV

GENERAL AND FINAL PROVISIONS

Article 32

Communications

1. As regards the specific supply arrangements, the competent authorities shall send to the Commission, no later than the 15th day of the month following the end of each quarter, the following data relating to the previous months of the reference calendar year, by product and CN code and, where applicable, by individual destination:

- (a) the quantities broken down according to whether they are dispatched from mainland Greece or other islands;
- (b) the amount of aid and the expenditure actually paid by product;
- (c) the quantities for which aid certificates have not been utilised;
- (d) any quantities exported to third countries or dispatched to the rest of the Community after processing in accordance with Article 13;
- (e) transfers within an overall quantity for a category of products and amendments to the forecast supply balances during the period;
- (f) the available balance and the utilisation rate.

The data provided for in the first subparagraph shall be supplied on the basis of the certificates utilised.

2. As regards support for local production, Greece shall notify the Commission:

- (a) not later than 31 March of each year, of the aid applications received and the amounts involved for the previous calendar year;
- (b) not later than 31 July of each year, of the aid applications definitively eligible and the amounts involved for the previous calendar year.

Article 33

Report

1. The report provided for in Article 17(2) of Regulation (EC) No 1405/2006 shall contain *inter alia*:

- (a) any significant changes in the socio-economic and agricultural environment;
- (b) a summary of the available physical and financial data on the implementation of each measure, followed by an analysis of the data and, where necessary, a presentation and analysis of the sector to which the measure relates;
- (c) the progress of the measures and priorities in relation to the specific and general objectives on the date of presentation of the report, using quantified indicators;
- (d) a brief account of any major problems encountered in managing and implementing the measures including the conclusions of the analysis mentioned under Article 22(3);
- (e) an examination of the results of all the measures, taking account of their reciprocal links;
- (f) for the specific supply arrangements:
 - data and an analysis relating to price trends and the manner in which the advantage granted was passed on, as well as the measures taken and the checks performed to ensure that it was passed on;
 - taking account of the other aid available, an analysis of the proportionality of the aid in relation to the additional cost of transport to the smaller islands and the prices applied and, in the case of products intended for processing and agricultural inputs, the additional costs of insularity and distant location;
- (g) an indication, based on objective indicators, of the extent to which the objectives assigned to each of the measures contained in the programme have been achieved;
- (h) data on the annual supply balance of the smaller islands in terms of, *inter alia*, consumption, headage developments, production and trade;
- (i) data on the amounts actually granted for the implementation of programme measures on the basis of the criteria defined by Greece, such as the number of eligible producers, the eligible surface area or the number of holdings concerned;
- (j) information on the financial implementation of each measure under the programme;
- (k) statistics on the checks carried out by the competent authorities and any penalties applied;
- (l) the comments of Greece on the implementation of the programme.

2. For 2007 the report shall contain an assessment of the impact, on stockfarming and on the agricultural economy in the smaller islands, of the aid programme for traditional activities relating to the production of beef and veal, sheepmeat and goatmeat.

Article 34

Amendments to programmes

1. Amendments to programmes approved under Article 13(2) of Regulation (EC) No 1405/2006 shall be submitted to the Commission for approval.

However, such approval shall not be necessary for the following amendments:

- (a) in the case of forecast supply balances, Greece may amend the level of aid and the quantities of products which may be covered by the supply arrangements;
- (b) in the case of Community support programmes for local production, Greece may adjust by up to 20 % the financial allocation for each measure and the unit amount of aid above or below the amounts in force at the time when the request for amendment is presented.

2. Greece shall notify the Commission once a year of the planned amendments. However, Greece may notify amendments at any time in cases of *force majeure* or exceptional circumstances. If the Commission has no objections to the planned amendments, they shall apply from the first day of the second month following that in which they were notified.

Article 35

Financing of studies, demonstration projects, training or technical assistance measures

The amount required to finance studies, demonstration projects, training and technical assistance measures provided for in a

programme approved under Article 13(2) of Regulation (EC) No 1405/2006 for the purposes of implementing that programme may not exceed 1 % of the total amount of financing for the programme.

Article 36

Additional national measures

Member States shall take all the additional measures required to apply this Regulation.

Article 37

Reduction of advances

Without prejudice to the general rules on budgetary discipline, where the information transmitted by Greece to the Commission under Articles 32 and 33 is incomplete or the time limit for transmitting that information has not been complied with, the Commission may reduce advances on entry in the accounts of agricultural expenditure on a temporary and flat-rate basis.

Article 38

Repeal

Regulations (EEC) No 2837/93, (EEC) No 2958/93, (EC) No 3063/93, (EC) No 3175/94, (EC) No 1517/2002, (EC) No 1999/2002, and (EC) No 2084/2004, are hereby repealed with effect from 1 January 2007.

Article 39

Entry into force

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

It shall apply from 1 January 2007.

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

Done at Brussels, 20 December 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

Maximum quantities of processed products which can be exported or dispatched annually from the smaller islands in the context of traditional consignments

(Quantity in kilograms (or litres))

[illegible]

COMMISSION REGULATION (EC) No 1915/2006**of 18 December 2006****continuing prior Community surveillance of imports of certain iron and steel products originating in certain third countries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3285/94 of 22 December 1994 on common rules for imports and repealing Regulation (EC) No 518/94 ⁽¹⁾, and in particular Article 11 thereof,

Having regard to Council Regulation (EC) No 519/94 of 7 March 1994 on common rules for imports from certain third countries and repealing Regulations (EEC) No 1765/82, (EEC) No 1766/82 and (EEC) No 3420/83 ⁽²⁾, and in particular Article 9 thereof,

After consultations with the Advisory Committees,

Whereas:

- (1) By Regulation (EC) No 76/2002 ⁽³⁾ the Commission introduced prior Community surveillance of imports of certain iron and steel products originating in third countries. That Regulation was amended by Commission Regulation (EC) No 1337/2002 ⁽⁴⁾ so as to extend the scope of the surveillance and by Regulation (EC) No 2385/2002 ⁽⁵⁾ and Regulation (EC) No 469/2005 ⁽⁶⁾.
- (2) The Community's external trade statistics are not available within the periods established by Commission Regulation (EC) No 1917/2000 ⁽⁷⁾.
- (3) Although the situation has changed since the introduction of surveillance in 2002, developments in the world steel market continue to require a reliable and quick information system on the future imports of the Community.

(4) Since 2003, China's market has been the key driver of the very important increase in the demand for steel products. However, China has been increasing its production capacity at a very accelerated pace. China's production of crude steel has been increased from 129 million tonnes in 2000 to 349 million tonnes in 2005, moving from a world share of 15,4 % to 36 % over the same period, and further production capacities are being added that could increase China's capacity in 2006. EU import from China totalled about 0,9 million tonnes in 2004 and 1,6 million tonnes in 2005. China was a net importer of 15 million tonnes in 2004 but will become a net exporter in 2006. It can be anticipated that this trend of decreasing imports and increasing exports in China will continue, thereby releasing into the world market important increased quantities of steel products looking for a new market.

(5) The most recent import statistics available for four major product-types, namely flat products, long products, tubes and pipes, and semi-finished products, showed for the first half year of 2006 an average increase of 11 % overall compared to the same period in 2005, reaching 18 % and 13 % respectively for flat and long products. Total imports was 26,2 million tonnes in 2005 as compared to 20 million tonnes in 2002, showing a total import increase for three years of 31 %.

(6) Analysis of the first two quarters of 2006 reveals a continued high level of imports, occurring within that period, overall 29 % increase, whilst figures for third quarter of that year point to a further upward trend.

(7) Furthermore, prices in the Community market, as they are on the US market, continue to be high and are generally between 20 % and 30 % higher than those observed in Asian markets. This price differentiation is likely to attract interest from third-country exporters and during 2006 first signs of a lowering of the price has been observed on the American and market and on the market of some European countries.

(8) Moreover, statistics on the employment of EU producers show a marked decline, falling from 414 500 people in 2000 down to 404 700 in 2001, 390 200 in 2002, 383 800 in 2003 and 375 900 in 2004 and 347 000 in 2005, that is a decrease of about 16 % over five years.

⁽¹⁾ OJ L 349, 31.12.1994, p. 53. Regulation as last amended by Regulation (EC) No 2200/2004 (OJ L 374, 22.12.2004, p. 1).

⁽²⁾ OJ L 67, 10.3.1994, p. 89. Regulation as last amended by Regulation (EC) No 427/2003 (OJ L 65, 8.3.2003, p. 1).

⁽³⁾ OJ L 16, 18.1.2002, p. 3. Regulation as last amended by Regulation (EC) No 469/2005 (OJ L 78, 24.3.2005, p. 12).

⁽⁴⁾ OJ L 195, 24.7.2002, p. 25.

⁽⁵⁾ OJ L 358, 31.12.2002, p. 125.

⁽⁶⁾ OJ L 78, 24.3.2005, p. 12.

⁽⁷⁾ OJ L 229, 9.9.2000, p. 14. Regulation as last amended by Regulation (EC) No 1949/2005 (OJ L 312, 29.11.2005, p. 10).

- (9) On the basis of recent trends in imports of steel products, of recent developments in the Chinese market, of the accelerated pace of increasing imports, of the high price differences between steel products in the EU market and those on third markets and of the already important job losses over recent years, a threat of injury to Community producers for the purposes of Article 11 of Regulation (EC) No 3285/94 can therefore be deemed to exist.
- (10) Thus, the interests of the Community require that imports of certain steel products should continue to be subject to prior Community surveillance in order to provide advanced statistical information permitting rapid analysis of import trends. Taking into account the expected developments mentioned above, and taking into consideration that other major steel producing countries have put into place or prolonged similar surveillance systems until 2009, it is appropriate that that system should continue exceptionally until 31 December 2009.
- (11) Moreover, so as to minimise unnecessary constraints and not disturb excessively the activities of companies close to the borders, it is desirable to increase the scope of small quantities which are excluded from the scope of the prior surveillance. Therefore, the net weight of imports that should be excluded from the application of this Regulation should be increased to 2 500 kilograms.
- (12) It is desirable for this Regulation to enter into force on the day of its publication in order to collect the data as soon as possible,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 76/2002, as modified by Regulations (EC) No 1337/2002, (EC) No 2385/2002 and (EC) No 469/2005, is amended as follows:

1. In Article 1, paragraph 3 is replaced by the following text:

‘3. Imports whose net weight does not exceed 2 500 kilograms are excluded from the application of this Regulation.’;

2. In Article 6, the date ‘31 December 2006’ is replaced by the date ‘31 December 2009’.

Article 2

As regards release for free circulation in Bulgaria and Romania as of 1 January 2007 of the steel products covered by this Regulation and shipped before 1 January 2007, a surveillance document is not required provided that the goods have been shipped before 1 January 2007. The presentation of the bill of lading or another transport document deemed to be equivalent by the Community authorities proving the shipment date is required.

Article 3

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

By derogation, Article 2 shall enter into force only subject to and on the date of the entry into force of the Treaty concerning the accession of Bulgaria and Romania to the European Union.

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

Done at Brussels, 18 December 2006.

For the Commission

Peter MANDELSON

Member of the Commission

COMMISSION REGULATION (EC) No 1916/2006**of 18 December 2006****opening and providing for the management of Community tariff quotas for certain fish and fishery products originating in Albania**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1616/2006 of 23 October 2006 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, and for applying the Interim Agreement between the European Community and the Republic of Albania ⁽¹⁾, and in particular Article 2 thereof,

Whereas:

- (1) A Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part ⁽²⁾, hereinafter referred to as 'the Stabilisation and Association Agreement', was signed in Luxembourg on 12 June 2006. The Stabilisation and Association Agreement is in the process of ratification.
- (2) On 12 June 2006 the Council concluded an Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the Republic of Albania, of the other part ⁽³⁾, hereinafter referred to as 'the Interim Agreement'. The objective of the Interim Agreement is to implement as speedily as possible the trade and trade-related provisions of the Stabilisation and Association Agreement. The Interim Agreement will enter into force on 1 December 2006.
- (3) In the Stabilisation and Association Agreement and the Interim Agreement it has been provided that certain fish and fishery products originating in Albania may be imported into the Community, within the limits of Community tariff quotas, at a reduced or a zero-rate customs duty.

- (4) The Community tariff quotas provided for in the Stabilisation and Association Agreement and in the Interim Agreement are annual and cover an indeterminate period. It is appropriate to provide the opening and the management of those tariff quotas.
- (5) It is necessary to provide, in accordance with Article 308a of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽⁴⁾, that the management system for tariff quotas laid down in Regulation (EEC) No 2454/93 is to be applied.
- (6) Member States should ensure that all Community importers have equal and continuous access to the tariff quotas and that the rates laid down for the quotas are applied uninterruptedly to all imports of the products concerned into all Member States until the quotas are exhausted. To ensure the efficiency of the common management of these quotas, Member States should be able to draw from the quota volumes the necessary quantities corresponding to actual imports. Management should take place in close cooperation between the Member States and the Commission. The latter should be able to monitor the rate at which the quotas are used up and to inform the Member States accordingly. For reasons of speed and efficiency, communication between the Member States and the Commission should, as far as possible, be transmitted electronically.
- (7) In accordance with the Stabilisation and Association Agreement and the Interim Agreement, the quota volumes for the year 2006 should be fixed on the full amount of the basic quota volumes set out in Annex III to those Agreements.
- (8) This Regulation should apply on the date of entry into force of the Interim Agreement and should remain in application after the entry into force of the Stabilisation and Association Agreement.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

⁽¹⁾ OJ L 300, 31.10.2006, p. 1.

⁽²⁾ Not yet published in the Official Journal.

⁽³⁾ OJ L 239, 1.9.2006, p. 1.

⁽⁴⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 402/2006 (OJ L 70, 9.3.2006, p. 35).

HAS ADOPTED THIS REGULATION:

Article 1

1. Products originating in Albania and listed in the Annex which are released for free circulation in the Community shall benefit from a reduced or a zero-rate customs duty, at the levels and within the limits of the annual Community tariff quotas specified in that Annex.

Those products shall be accompanied by proof of origin as provided for in Protocol No 4 to the Stabilisation and Association Agreement and to the Interim Agreement.

2. Each Member State shall ensure that importers of the products referred to in paragraph 1 have equal and uninterrupted access to the tariff quotas as long as the balance of the relevant quota volume so permits.

Article 2

1 The tariff quotas referred to in Article 1 shall be managed by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

2 Communications relating to the management of tariff quotas between the Member States and the Commission shall be transmitted as far as possible, electronically.

Article 3

1. The individual tariff quota volume for prepared or preserved anchovies referred to in the Annex under order No 09.1505 may be increased every year and for the first time for 2007 until the yearly volume of the quota has reached 1 600 tonnes or the parties agree to apply other arrangements.

2. The annual increase referred to in paragraph 1 may be applied only if at least 80 % of the volume opened within the previous year has been used.

Article 4

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

It shall apply from 1 December 2006.

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

Done at Brussels, 18 December 2006.

For the Commission

László KOVÁCS

Member of the Commission

ANNEX

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

FISH AND FISHERY PRODUCTS

Order No	CN Code	TARIC subdivision	Description	Quota volume	Rate of duty
09.1500	0301 91 10		Trout (<i>Salmo trutta</i> , <i>Oncorhynchus mykiss</i> , <i>Oncorhynchus clarki</i> , <i>Oncorhynchus aguabonita</i> , <i>Oncorhynchus gilae</i> , <i>Oncorhynchus apache</i> and <i>Oncorhynchus chrysogaster</i>): live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption	From 1 December 2006 to 31 December 2006: 50 tonnes from 1 January to 31 December 2007 and for every year thereafter: 50 tonnes	Free
	0301 91 90				
	0302 11 10				
	0302 11 20				
	0302 11 80				
	0303 21 10				
	0303 21 20				
	0303 21 80				
	0304 10 15				
	0304 10 17				
	ex 0304 10 19	40			
	ex 0304 10 91	10			
	0304 20 15				
	0304 20 17				
	ex 0304 20 19	50			
	ex 0304 90 10	11, 17, 40			
	ex 0305 10 00	10			
	ex 0305 30 90	50			
	0305 49 45				
	ex 0305 59 80	61			
	ex 0305 69 80	61			
09.1501	0301 93 00		Carp: live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption	From 1 December 2006 to 31 December 2006: 20 tonnes from 1 January to 31 December 2007 and for every year thereafter: 20 tonnes	Free
	0302 69 11				
	0303 79 11				
	ex 0304 10 19	30			
	ex 0304 10 91	20			
	ex 0304 20 19	40			
	ex 0304 90 10	16			
	ex 0305 10 00	20			
	ex 0305 30 90	60			
	ex 0305 49 80	30			
	ex 0305 59 80	63			
	ex 0305 69 80	63			
09.1502	ex 0301 99 90	80	Sea bream (<i>Dentex dentex</i> and <i>Pagellus</i> spp.): live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption	From 1 December 2006 to 31 December 2006: 20 tonnes from 1 January to 31 December 2007 and for every year thereafter: 20 tonnes	Free
	0302 69 61				
	0303 79 71				
	ex 0304 10 38	80			
	ex 0304 10 98	77			
	ex 0304 20 94	50			
	ex 0304 90 97	82			
	ex 0305 10 00	30			
	ex 0305 30 90	70			
	ex 0305 49 80	40			
	ex 0305 59 80	65			
	ex 0305 69 80	65			

Order No	CN Code	TARIC subdivision	Description	Quota volume	Rate of duty
09.1503	ex 0301 99 90 0302 69 94 ex 0303 77 00 ex 0304 10 38 ex 0304 10 98 ex 0304 20 94 ex 0304 90 97 ex 0305 10 00 ex 0305 30 90 ex 0305 49 80 ex 0305 59 80 ex 0305 69 80	22 10 85 79 60 84 40 80 50 67 67	Sea bass (<i>Dicentrarchus labrax</i>): live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption	From 1 December 2006 to 31 December 2006: 20 tonnes from 1 January to 31 December 2007 and for every year thereafter: 20 tonnes	Free
09.1504	1604 13 11 1604 13 19 ex 1604 20 50	10, 19	Prepared or preserved sardines	From 1 December 2006 to 31 December 2006: 100 tonnes from 1 January to 31 December 2007 and for every year thereafter: 100 tonnes	6 %
09.1505	1604 16 00 1604 20 40		Prepared or preserved anchovies	From 1 December 2006 to 31 December 2006: 1 000 tonnes from 1 January to 31 December 2007 and for every year thereafter: 1 000 tonnes ⁽¹⁾	Free

⁽¹⁾ From the 1st of January 2007 the yearly volume of the quota will be increased by 200 tonnes provided that at least 80 % of the previous year's quota has been used by 31 December of that year. This mechanism will apply until such time as the yearly volume of the quota has reached 1 600 tonnes or the Parties agree to apply other arrangements.

COMMISSION REGULATION (EC) No 1917/2006**of 19 December 2006****amending Regulation (EC) No 1342/2003 laying down special detailed rules for the application of the system of import and export licences for 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 Articles 9(2) and 12(1) 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 Articles 10(2) and 13(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽³⁾ applies to import licences for import tariff quota periods starting from 1 January 2007.

(2) In the cereals and rice sector, Commission Regulation (EC) No 1342/2003 ⁽⁴⁾ establishes rules further to or derogating from Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽⁵⁾, which differ from the common rules laid down by Regulation (EC) No 1301/2006. In the interests of greater legibility and simplification for economic operators, Regulation (EC) No 1342/2003 should be adapted to take account of the provisions of Regulation (EC) No 1301/2006 and it should be stated that Regulations (EC) Nos 1291/2000 and 1301/2006 apply to the import tariff quotas referred to in Regulation (EC) No 1342/2003, except where that Regulation provides otherwise.

(3) It should also be indicated which specific provisions or derogations apply in the case of import tariff quotas managed under an import licence system, and which specific management and administration procedures apply. Thus it is necessary to fix the specific conditions

applicable to the forwarding of applications from operators to the Commission, the validity period of the import licences issued, the non-transferable nature of the licences and the issue date for import licences, which must correspond to the date laid down in Article 23(2) of Regulation (EC) No 1291/2000.

(4) These measures should apply from 1 January 2007, the date from which the measures laid down in Regulation (EC) No 1301/2006 apply.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1342/2003 is hereby amended as follows:

1. In Article 1, the following subparagraph is added:

‘The provisions of Commission Regulations (EC) Nos 1291/2000 and 1301/2006 ^(*) shall apply except where this Regulation provides otherwise.

^(*) OJ L 238, 1.9.2006, p. 13’

2. Article 6 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Import licences for the products referred to in Article 1 of Regulation (EC) No 1784/2003 and in Article 1 of Regulation (EC) 1785/2003 are valid from their actual date of issue within the meaning of Article 23(2) of Regulation (EC) No 1291/2000 until the expiry of the periods laid down in Annex 1 to this Regulation.

However, for import tariff quotas opened in the cereals and rice sectors, managed under an import licence system, the import licences issued shall cease to be valid after the last day of the quota period in question, in accordance with the first subparagraph of Article 8 of Regulation (EC) No 1301/2006.’

⁽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 amended by Regulation (EC) No 797/2006 (OJ L 144, 31.5.2006, p. 1).

⁽³⁾ OJ L 238, 1.9.2006, p. 13.

⁽⁴⁾ OJ L 189, 29.7.2003, p. 12. Regulation as last amended by Regulation (EC) No 1713/2006 (OJ L 321, 21.11.2006, p. 11).

⁽⁵⁾ OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1713/2006.

(b) the following paragraph is added:

‘3. For import tariff quotas opened in the cereals and rice sectors, managed under an import licence system, rights arising under the licences shall not be transferable, in derogation from Article 9(1) of Regulation (EC) No 1291/2000.’

3. Article 16(2) is replaced by the following:

‘2. As regards import licences other than those intended for the management of import tariff quotas and governed by Regulation (EC) No 1301/2006, the Member States shall communicate to the Commission on a daily basis, solely via e-mail, on forms made available to them by the Commission and under the conditions laid down by the information system put in place by the latter, the total quantities covered by the licences, by origin and by product code, and for common wheat, by quality class. Communications relating to import licences for rice shall also indicate the origin.’

4. In Annex I, the column ‘Validity period’ is amended as follows:

(a) the wording ‘Until the end of the fourth month following issue of the licence’ is replaced by the wording ‘Until the end of the fourth month following the actual date of issue of the licence within the meaning of Article 23(2) of Regulation (EC) No 1291/2000’;

(b) the wording ‘Until the end of the second month following issue of the licence’ is replaced by the wording ‘Until the end of the second month following the actual date of issue of the licence within the meaning of Article 23(2) of Regulation (EC) No 1291/2000’;

(c) the wording ‘Until the end of the third month following issue of the licence’ is replaced by the wording ‘Until the end of the third month following the actual date of issue of the licence within the meaning of Article 23(2) of Regulation (EC) No 1291/2000’.

Article 2

This Regulation shall enter into force on 1 January 2007.

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

Done at Brussels, 19 December 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

COMMISSION REGULATION (EC) No 1918/2006**of 20 December 2006****opening and providing for the administration of tariff quota for olive oil originating in Tunisia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 865/2004 of 29 April 2004 on the common organisation of the market in olive oil and table olives and amending Regulation (EEC) No 827/68 ⁽¹⁾, and in particular Article 10(4) thereof,

Whereas:

(1) Article 3 of Protocol No 1 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part ⁽²⁾ as amended by Article 3(1) of the Protocol to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, to take account of the 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 to the European Union ⁽³⁾, approved by Council Decision 2005/720/EC ⁽⁴⁾, opens a tariff quota of 56 700 tons at a zero rate of duty for imports of olive oil falling within CN codes 1509 10 10 and 1509 10 90, wholly obtained in Tunisia and transported direct from there to the Community.

(2) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽⁵⁾ applies to import licences for import tariff quota periods starting from 1 January 2007.

(3) Regulation (EC) No 1301/2006 lays down in particular detailed provisions on applications, the status of applicants and the issue of licences. That Regulation limits the period of validity of licences to the last day of the import tariff quota period.

(4) Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽⁶⁾, Commission Regulation (EC) No 1345/2005 of 16 August 2005 laying down detailed rules for the application of the system of import licences for olive oil ⁽⁷⁾ and Regulation (EC) No 1301/2006 should apply without prejudice to additional conditions and derogations laid down in this Regulation.

(5) The supply of olive oil to the Community market allows the quantity under the tariff quota to be disposed of in principle without disturbing the market, provided that the imports are not concentrated to a short period of the marketing year. Provision should therefore be made for import licences to be issued between January and October according to a monthly schedule.

(6) Taking into account the advantage of the zero rate duty, the security for import licenses issued in the framework of tariff quotas opened under this Regulation should be fixed at a higher amount than that fixed by Regulation (EC) No 1345/2005.

(7) For the sake of clarity, Commission Regulation (EC) No 312/2001 of 15 February 2001 laying down detailed rules of application for the importation of olive oil originating in Tunisia and derogating from certain provisions of Regulations (EC) No 1476/95 and (EC) No 1291/2000 ⁽⁸⁾ should be repealed.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Olive Oils and Table Olives,

⁽¹⁾ OJ L 161, 30.4.2004, p. 97. Corrected version OJ L 206, 9.6.2004, p. 37.

⁽²⁾ OJ L 97, 30.3.1998, p. 2. Agreement as last amended by Council Decision 2006/612/EC (OJ L 260, 21.9.2006, p. 1).

⁽³⁾ OJ L 278, 21.10.2005, p. 3.

⁽⁴⁾ OJ L 278, 21.10.2005, p. 1.

⁽⁵⁾ OJ L 238, 1.9.2006, p. 13.

⁽⁶⁾ OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1713/2006 (OJ L 321, 21.11.2006, p. 11).

⁽⁷⁾ OJ L 212, 17.8.2005, p. 13.

⁽⁸⁾ OJ L 46, 16.2.2001, p. 3. Regulation as last amended by Commission Regulation (EC) No 1721/2005 (OJ L 276, 21.10.2005, p. 3).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1291/2000, Regulation (EC) No 1345/2005 and Regulation (EC) No 1301/2006 shall apply without prejudice to the provisions of this Regulation.

Article 2

1. A tariff quota, bearing order number No 09.4032 is opened in relation to imports into the Community of virgin olive oil falling within CN codes 1509 10 10 and 1509 10 90, wholly obtained in Tunisia and transported directly from that country to the Community, subject to the conditions laid down in this Regulation. The volume of the tariff quota shall be 56 700 tons. The rate of duty applicable shall be 0 %.

2. The quota shall be opened from 1 January each year. For each year and without prejudice to the volume of the quota referred to in paragraph 1, import licences may be issued up to the following monthly limits:

- 1 000 tonnes for each month of January and February,
- 4 000 tonnes for the month of March,
- 8 000 tonnes for the month of April,
- 10 000 tonnes for each month from May to October.

By way of derogation from Article 7(4) of Regulation (EC) No 1301/2006, quantities not used in a month shall be added to the next month, but not to the month thereafter.

3. For the purposes of calculating the quantity authorised for each month, where a week begins in one month and finishes in

the following month, it must be considered as part of the month in which the Thursday falls.

Article 3

1. By way of derogation from Article 6(1) of Regulation (EC) No 1301/2006, applicants may lodge one import licence application each week, either on Monday or Tuesday. Weekly licence applications submitted by an applicant may not relate to a quantity exceeding the monthly limit set up in Article 2(2) of this Regulation.

2. The Member States shall notify the Commission each week of the quantities for which licence applications have been lodged, on the working day following Tuesday. Notifications shall be broken down by CN code.

3. Import licences shall be issued by the competent authorities of the Member States on the fourth working day following the end of the notification period provided for in paragraph 2.

4. By way of derogation from Article 3(2) of Regulation (EC) No 1345/2005, the amount of the security shall be EUR 15 per 100 kg net.

Article 4

Regulation (EC) No 312/2001 is repealed.

Article 5

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

It shall apply from 1 January 2007.

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

Done at Brussels, 20 December 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 19 December 2006

on the granting of the special incentive arrangement for sustainable development and good governance beyond 1 January 2007 to the Republic of El Salvador

(2006/978/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences ⁽¹⁾, and in particular Article 9(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) By Commission Decision 2005/924/EC ⁽²⁾ of 21 December 2005, El Salvador has been included in the list of developing countries which qualify for the special incentive arrangement for sustainable development and good governance, provided for in Regulation (EC) No 980/2005, for the period 1 January 2006 to 31 December 2008.

(2) Pursuant to the said Regulation, the granting of the special incentive arrangement beyond 1 January 2007 to countries faced with specific constitutional constraints to the ratification of a maximum of two of the 16 conventions listed in Part A of Annex III to the same Regulation is subject to a Council Decision.

(3) In accordance with the same Regulation, the Commission submitted on 29 November 2006 a report to the Council on the compliance by El Salvador with its commitments under that Regulation and proposing a continuation of the special incentive arrangement beyond 1 January 2007,

HAS ADOPTED THIS DECISION:

Sole Article

The Republic of El Salvador shall continue to benefit from the special incentive arrangement for sustainable development and good governance provided for in Article 1 of Regulation (EC) No 980/2005, from 1 January 2007 to 31 December 2008.

This Decision is addressed to the Member States.

Done at Brussels, 19 December 2006.

For the Council
The President
J. KORKEAOJA

⁽¹⁾ OJ L 169, 30.6.2005, p. 1.

⁽²⁾ OJ L 337, 22.12.2005, p. 50.

(Acts adopted under Title V of the Treaty on European Union)

POLITICAL AND SECURITY COMMITTEE DECISION EUPM/1/2006
of 5 December 2006
extending the mandate of the Head of Mission/Police Commissioner of the European Union Police
Mission (EUPM) in Bosnia and Herzegovina (BiH)
(2006/979/CFSP)

THE POLITICAL AND SECURITY COMMITTEE,

Police Mission (EUPM) in Bosnia and Herzegovina for the duration of the mission.

Having regard to the Treaty on European Union and in particular the third paragraph of Article 25 thereof,

- (5) The mandate of the Head of the European Union Police Mission (EUPM) in Bosnia and Herzegovina should therefore be extended until 31 December 2007,

Having regard to Council Joint Action 2005/824/CFSP of 24 November 2005 on the European Union Police Mission (EUPM) in Bosnia and Herzegovina (BiH) ⁽¹⁾, and, in particular, Article 9(1) thereof,

HAS DECIDED AS FOLLOWS:

Whereas:

Article 1

- (1) Article 9(1) of Joint Action 2005/824/CFSP provides that the Council authorises the Political and Security Committee to take the relevant decisions in accordance with Article 25 of the Treaty, including the decision to appoint a Head of Mission/Police Commissioner.

The mandate of Brigadier General Vincenzo COPPOLA is hereby extended as Head of Mission/Police Commissioner of the European Union Police Mission (EUPM) in Bosnia and Herzegovina (BiH), until 31 December 2007.

Article 2

- (2) On 25 November 2005 the Political and Security Committee adopted Decision EUPM/2/2005 appointing Brigadier General Vincenzo COPPOLA as Head of the European Union Police Mission (EUPM) in Bosnia and Herzegovina ⁽²⁾

This Decision shall take effect on the day of its adoption.

It shall apply until 31 December 2007.

- (3) This Decision expires on 31 December 2006.

Done at Brussels, 5 December 2006.

- (4) The Secretary General/High Representative has proposed the extension of the mandate of Brigadier General Vincenzo COPPOLA as Head of the European Union

For the Political and Security Committee
The President
T. TANNER

⁽¹⁾ OJ L 307, 25.11.2005, p. 55.

⁽²⁾ OJ L 335, 21.12.2005, p. 58.

POLITICAL AND SECURITY COMMITTEE DECISION EUPT/2/2006**of 12 December 2006****extending the mandate of the Head of the EU Planning Team (EUP T Kosovo) regarding a possible EU crisis management operation in the field of rule of law and possible other areas in Kosovo**

(2006/980/CFSP)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third subparagraph of Article 25 thereof,

Having regard to Council Joint Action 2006/304/CFSP of 10 April 2006 on the establishment of an EU Planning Team (EUP T Kosovo) regarding a possible EU crisis management operation in the field of rule of law and possible other areas in Kosovo ⁽¹⁾, and in particular Article 6(2) thereof,

Whereas:

- (1) Article 6 of Joint Action 2006/304/CFSP provides for the Council to authorise the Political and Security Committee to take the relevant decisions in accordance with Article 25 of the Treaty, including the decision to appoint, upon a proposal by the Secretary-General/High Representative, a Head of the EU Planning Team (EUP T Kosovo).
- (2) On 2 May 2006 the Political and Security Committee adopted Decision EUP T Kosovo/1/2006 appointing Mr Casper KLYNGE as Head of the EU Planning Team (EUP T Kosovo) ⁽²⁾.
- (3) That Decision expires on 31 December 2006.
- (4) On 11 December 2006, the Council adopted Joint Action 2006/918/CFSP amending and extending Joint Action 2006/304/CFSP until 31 May 2007.

(5) The Secretary-General/High Representative has proposed the extension of the mandate of Mr Casper Klynge as Head of the EU Planning Team (EUP T Kosovo) until 31 May 2007.

(6) The mandate of the Head of the EU Planning Team (EUP T Kosovo) should therefore be extended until 31 May 2007,

HAS DECIDED AS FOLLOWS:

Article 1

The mandate of Mr Casper Klynge as Head of the EU Planning Team (EUP T Kosovo) regarding a possible EU crisis management operation in the field of rule of law and possible other areas in Kosovo is hereby extended until 31 May 2007.

Article 2

This Decision shall take effect on the day of its adoption.

It shall apply until 31 May 2007.

Done at Brussels, 12 December 2006.

For the Political and Security Committee
The Chairperson
T. TANNER

⁽¹⁾ OJ L 112, 26.4.2006, p. 19. Joint Action as amended by Joint Action 2006/918/CFSP (OJ L 349, 12.12.2006, p. 57).

⁽²⁾ OJ L 130, 18.5.2006, p. 42.

NOTICE TO READERS

From 1 January 2007, the structure of the Official Journal will be modified in the direction of a clearer classification of the acts published which preserves, nevertheless, essential continuity.

The new structure, with examples illustrating its use in the classification of acts, can be consulted on the EUR-Lex site on the following address:

<http://eur-lex.europa.eu/en/index.htm>