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Contents

I Acts whose publication is obligatory

- * Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid** 1
- Commission Regulation (EC) No 995/98 of 13 May 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables 5
- Commission Regulation (EC) No 996/98 of 13 May 1998 fixing the representative prices and the additional import duties for molasses in the sugar sector 7
- Commission Regulation (EC) No 997/98 of 13 May 1998 fixing the export refunds on white sugar and raw sugar exported in its unaltered state 9
- Commission Regulation (EC) No 998/98 of 13 May 1998 fixing the maximum export refund for white sugar for the 38th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1408/97 11
- * Commission Regulation (EC) No 999/98 of 12 May 1998 establishing unit values for the determination of the customs value of certain perishable goods** 12
- * Commission Regulation (EC) No 1000/98 of 13 May 1998 amending Annexes I and II to Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin ⁽¹⁾** 18

(¹) Text with EEA relevance

* Commission Regulation (EC) No 1001/98 of 13 May 1998 amending Regulation (EEC) No 536/93 laying down detailed rules on the application of the additional levy on milk and milk products	22
* Commission Regulation (EC) No 1002/98 of 13 May 1998 imposing a provisional anti-dumping duty on imports of unwrought unalloyed magnesium originating in the People's Republic of China	24
Commission Regulation (EC) No 1003/98 of 13 May 1998 fixing the export refunds on pigmeat.....	34
Commission Regulation (EC) No 1004/98 of 13 May 1998 fixing the import duties in the rice sector.....	36

II *Acts whose publication is not obligatory*

Commission

98/325/EC:

* Commission Decision of 24 April 1998 on the 1998 work programme relating to the protein content of the main milk products (¹)	39
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Notice to readers (see page 3 of the cover)

(¹) Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 994/98

of 7 May 1998

on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 94 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

After consulting the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

- (1) Whereas, pursuant to Article 94 of the Treaty, the Council may make any appropriate regulations for the application of Articles 92 and 93 and may, in particular, determine the conditions in which Article 93(3) shall apply and the categories of aid exempted from this procedure;
- (2) Whereas, under the Treaty, the assessment of compatibility of aid with the common market essentially rests with the Commission;
- (3) Whereas the proper functioning of the internal market requires strict and efficient application of the rules of competition with regard to State aids;
- (4) Whereas the Commission has applied Articles 92 and 93 of the Treaty in numerous decisions and has also stated its policy in a number of communications; whereas, in the light of the Commission's considerable experience in applying Articles 92 and 93 of the Treaty and the general texts issued by the Commission on the basis of those provisions, it is appropriate, with a view to ensuring efficient supervision and simplifying administration, without weakening Commission monitoring, that

the Commission should be enabled to declare by means of regulations, in areas where the Commission has sufficient experience to define general compatibility criteria, that certain categories of aid are compatible with the common market pursuant to one or more of the provisions of Article 92(2) and (3) of the Treaty and are exempted from the procedure provided for in Article 93(3) thereof;

- (5) Whereas group exemption regulations will increase transparency and legal certainty; whereas they can be directly applied by national courts, without prejudice to Articles 5 and 177 of the Treaty;
- (6) Whereas it is appropriate that the Commission, when it adopts regulations exempting categories of aid from the obligation to notify provided for in Article 93(3) of the Treaty, specifies the purpose of the aid, the categories of beneficiaries and thresholds limiting the exempted aid, the conditions governing the cumulation of aid and the conditions of monitoring, in order to ensure the compatibility with the common market of aid covered by this Regulation;
- (7) Whereas it is appropriate to enable the Commission, when it adopts regulations exempting certain categories of aid from the obligation to notify in Article 93(3) of the Treaty, to attach further detailed conditions in order to ensure the compatibility with the common market of aid covered by this Regulation;
- (8) Whereas it may be useful to set thresholds of other appropriate conditions requiring the notification of awards of aid in order to allow the Commission to

⁽¹⁾ OJ C 262, 28. 8. 1997, p. 6.

⁽²⁾ OJ C 138, 4. 5. 1998.

⁽³⁾ OJ C 129, 27. 4. 1998, p. 70.

examine individually the effect of certain aid on competition and trade between Member States and its compatibility with the common market;

- (9) Whereas the Commission, having regard to the development and the functioning of the common market, should be enabled to establish by means of a regulation that certain aid does not fulfil all the criteria of Article 92(1) of the Treaty and is therefore exempted from the notification procedure laid down in Article 93(3), provided that aid granted to the same undertaking over a given period of time does not exceed a certain fixed amount;
- (10) Whereas in accordance with Article 93(1) of the Treaty the Commission is under an obligation, in cooperation with Member States, to keep under constant review all systems of existing aid; whereas for this purpose and in order to ensure the largest possible degree of transparency and adequate control it is desirable that the Commission ensures the establishment of a reliable system of recording and storing information about the application of the regulations it adopts, to which all Member States have access, and that it receives all necessary information from the Member States on the implementation of aid exempted from notification to fulfil this obligation, which may be examined and evaluated with the Member States within the Advisory Committee; whereas for this purpose it is also desirable that the Commission may require such information to be supplied as is necessary to ensure the efficiency of such review;
- (11) Whereas the control of the granting of aid involves factual, legal and economic issues of a very complex nature and great variety in a constantly evolving environment; whereas the Commission should therefore regularly review the categories of aid which should be exempted from notification; whereas the Commission should be able to repeal or amend regulations it has adopted pursuant to this Regulation where circumstances have changed with respect to any important element which constituted grounds for their adoption or where the progressive development or the functioning of the common market so requires;
- (12) Whereas the Commission, in close and constant liaison with the Member States, should be able to define precisely the scope of these regulations and the conditions attached to them; whereas, in order to provide for cooperation between the Commission and the competent authorities of the Member States, it is appropriate to set up an advisory committee on State aid to be consulted before the Commission adopts regulations pursuant to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Group exemptions

1. The Commission may, by means of regulations adopted in accordance with the procedures laid down in Article 8 of this Regulation and in accordance with Article 92 of the Treaty, declare that the following categories of aid should be compatible with the common market and shall not be subject to the notification requirements of Article 93(3) of the Treaty:
 - (a) aid in favour of:
 - (i) small and medium-sized enterprises;
 - (ii) research and development;
 - (iii) environmental protection;
 - (iv) employment and training;
 - (b) aid that complies with the map approved by the Commission for each Member State for the grant of regional aid.
2. The Regulations referred to in paragraph 1 shall specify for each category of aid:
 - (a) the purpose of the aid;
 - (b) the categories of beneficiaries;
 - (c) thresholds expressed either in terms of aid intensities in relation to a set of eligible costs or in terms of maximum aid amounts;
 - (d) the conditions governing the cumulation of aid;
 - (e) the conditions of monitoring as specified in Article 3.
3. In addition, the regulations referred to in paragraph 1 may, in particular:
 - (a) set thresholds or other conditions for the notification of awards of individual aid;
 - (b) exclude certain sectors from their scope;
 - (c) attach further conditions for the compatibility of aid exempted under such regulations.

Article 2

De minimis

1. The Commission may, by means of a Regulation adopted in accordance with the procedure laid down in Article 8 of this Regulation, decide that, having regard to the development and functioning of the common market, certain aids do not meet all the criteria of Article 92(1) and that they are therefore exempted from the notification procedure provided for in Article 93(3), provided that aid granted to the same undertaking over a given period of time does not exceed a certain fixed amount.

2. At the Commission's request, Member States shall, at any time, communicate to it any additional information relating to aid exempted under paragraph 1.

Article 3

Transparency and monitoring

1. When adopting regulations pursuant to Article 1, the Commission shall impose detailed rules upon Member States to ensure transparency and monitoring of the aid exempted from notification in accordance with those regulations. Such rules shall consist, in particular, of the requirements laid down in paragraphs 2, 3 and 4.

2. On implementation of aid systems or individual aids granted outside any system, which have been exempted pursuant to such regulations, Member States shall forward to the Commission, with a view to publication in the *Official Journal of the European Communities*, summaries of the information regarding such systems of aid or such individual aids as are not covered by exempted aid systems.

3. Member States shall record and compile all the information regarding the application of the group exemptions. If the Commission has information which leads it to doubt that an exemption regulation is being applied properly, the Member States shall forward to it any information it considers necessary to assess whether an aid complies with that regulation.

4. At least once a year, Member States shall supply the Commission with a report on the application of group exemptions, in accordance with the Commission's specific requirements, preferably in computerised form. The Commission shall make access to those reports available to all the Member States. The Advisory Committee referred to in Article 7 shall examine and evaluate those reports once a year.

Article 4

Period of validity and amendment of regulations

1. Regulations adopted pursuant to Articles 1 and 2 shall apply for a specific period. Aid exempted by a regulation adopted pursuant to Articles 1 and 2 shall be exempted for the period of validity of that regulation and for the adjustment period provided for in paragraphs 2 and 3.

2. Regulations adopted pursuant to Articles 1 and 2 may be repeated or amended where circumstances have changed with respect to any important element that constituted grounds for their adoption or where the progressive development or the functioning of the common market so requires. In that case the new regulation shall set a period of adjustment of six months for the adjustment of aid covered by the previous regulation.

3. Regulations adopted pursuant to Articles 1 and 2 shall provide for a period as referred to in paragraph 2, should their application not be extended when they expire.

Article 5

Evaluation report

Every five years the Commission shall submit a report to the European Parliament and to the Council on the application of this Regulation. It shall submit a draft report for consideration by the Advisory Committee referred to in Article 7.

Article 6

Hearing of interested parties

Where the Commission intends to adopt a regulation, it shall publish a draft thereof to enable all interested persons and organisations to submit their comments to it within a reasonable time limit to be fixed by the Commission and which may not under any circumstances be less than one month.

Article 7

Advisory committee

An advisory committee, hereinafter referred to as the Advisory Committee on State Aid, shall be set up. It shall be composed of representatives of the Member States and chaired by the representative of the Commission.

Article 8

Consultation of the Advisory Committee

1. The Commission shall consult the Advisory Committee on State Aid:

- (a) before publishing any draft regulation;
- (b) before adopting any regulation.

2. Consultation of the Committee shall take place at a meeting called by the Commission. The drafts and documents to be examined shall be annexed to the notification. The meeting shall take place no earlier than two months after notification has been sent.

This period may be reduced in the case of the consultations referred to in paragraph 1(b), when urgent or for simple extension of a regulation.

3. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

4. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes. The Advisory Committee may recommend publication of the opinion in the *Official Journal of the European Communities*.

5. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 9

Final provisions

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

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

Done at Brussels, 7 May 1998.

For the Council
The President
M. BECKETT

COMMISSION REGULATION (EC) No 995/98
of 13 May 1998
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⁾, as last amended by Regulation (EC) No 2375/96⁽²⁾, and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EC) No 150/95⁽⁴⁾, and in particular Article 3 (3) thereof,

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

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

Whereas, 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 14 May 1998.

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

Done at Brussels, 13 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 13 May 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	204	143,0
	999	143,0
0707 00 05	052	94,8
	999	94,8
0709 90 70	052	75,3
	204	87,8
	999	81,6
0805 10 10, 0805 10 30, 0805 10 50	052	60,0
	204	38,0
	212	60,0
	400	55,4
	600	54,7
	624	47,6
	999	52,6
0805 30 10	382	60,1
	388	60,1
	999	60,1
0808 10 20, 0808 10 50, 0808 10 90	060	42,3
	388	74,4
	400	91,2
	404	93,8
	508	80,3
	512	78,6
	524	89,2
	528	74,6
	804	110,4
	999	81,6

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 996/98

of 13 May 1998

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar⁽¹⁾, as last amended by Regulation (EC) No 1599/96⁽²⁾,

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

Whereas Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68⁽⁴⁾; whereas that price should be fixed for the standard quality defined in Article 1 of the above Regulation;

Whereas the representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; whereas that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality; whereas the standard quality for molasses is defined in Regulation (EEC) No 785/68;

Whereas, when the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States; whereas, under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends;

Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small quantity that is not representative of the market;

whereas offer prices which can be regarded as not representative of actual market trends must also be disregarded;

Whereas, if information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68;

Whereas a representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price;

Whereas where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95; whereas should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed;

Whereas application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 14 May 1998.

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 141, 24. 6. 1995, p. 12.

⁽⁴⁾ OJ L 145, 27. 6. 1968, p. 12.

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

Done at Brussels, 13 May 1998.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

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

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	7,00	0,02	—
1703 90 00 ⁽¹⁾	8,29	—	0,00

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

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 997/98

of 13 May 1998

fixing the export refunds on white sugar and raw sugar exported in its unaltered state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 1 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾, and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

Whereas Article 19 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (a) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Regulation (EEC) No 1785/81 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 17a of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar ⁽³⁾, as amended by Regulation (EC) No 3290/94 ⁽⁴⁾; whereas, furthermore, this refund should be fixed in accordance with Article 17a (4) of Regulation (EEC) No 1785/81; whereas candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector ⁽⁵⁾; whereas the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their

sucrose content and, accordingly, be fixed per 1 % of the said content;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for sugar according to destination;

Whereas, in special cases, the amount of the refund may be fixed by other legal instruments;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽⁶⁾, as last amended by Regulation (EC) No 150/95 ⁽⁷⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 ⁽⁸⁾, as last amended by Regulation (EC) No 1482/96 ⁽⁹⁾;

Whereas the refund must be fixed every two weeks; whereas it may be altered in the intervening period;

Whereas it follows from applying the rules set out above to the present situation on the market in sugar and in particular to quotations or prices for sugar within the Community and on the world market that the refund should be as set out in the Annex hereto;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, are hereby fixed to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 May 1998.

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 89, 10. 4. 1968, p. 3.

⁽⁴⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽⁵⁾ OJ L 214, 8. 9. 1995, p. 16.

⁽⁶⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁷⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁸⁾ OJ L 108, 1. 5. 1993, p. 106.

⁽⁹⁾ OJ L 188, 27. 7. 1996, p. 22.

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

Done at Brussels, 13 May 1998.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 13 May 1998 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— ECU/100 kg —
1701 11 90 9100	41,05 ⁽¹⁾
1701 11 90 9910	38,11 ⁽¹⁾
1701 11 90 9950	⁽²⁾
1701 12 90 9100	41,05 ⁽¹⁾
1701 12 90 9910	38,11 ⁽¹⁾
1701 12 90 9950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 9000	0,4463
	— ECU/100 kg —
1701 99 10 9100	44,63
1701 99 10 9910	43,07
1701 99 10 9950	43,07
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 9100	0,4463

⁽¹⁾ Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 17a (4) of Regulation (EEC) No 1785/81.

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

COMMISSION REGULATION (EC) No 998/98
of 13 May 1998

fixing the maximum export refund for white sugar for the 38th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1408/97

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾, and in particular the second subparagraph of Article 17 (5)(b) thereof,

Whereas Commission Regulation (EC) No 1408/97 of 22 July 1997 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1408/97 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 38th partial invitation to tender, the provisions set out in Article 1 should be adopted;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

For the 38th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1408/97 the maximum amount of the export refund is fixed at ECU 46,082 per 100 kilograms.

Article 2

This Regulation shall enter into force on 14 May 1998.

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

Done at Brussels, 13 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 194, 23. 7. 1997, p. 16.

COMMISSION REGULATION (EC) No 999/98
of 12 May 1998
establishing unit values for the determination of the customs value of certain
perishable goods

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, as last amended by Regulation (EC) No 82/97 ⁽²⁾,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾, as last amended by Regulation (EC) No 75/98 ⁽⁴⁾, and in particular Article 173 (1) thereof,

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 15 May 1998.

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

Done at Brussels, 12 May 1998.

For the Commission
Martin BANGEMANN
Member of the Commission

⁽¹⁾ OJ L 302, 19. 10. 1992, p. 1.

⁽²⁾ OJ L 17, 21. 1. 1997, p. 1.

⁽³⁾ OJ L 253, 11. 10. 1993, p. 1.

⁽⁴⁾ OJ L 7, 13. 1. 1998, p. 3.

ANNEX

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.10	New potatoes 0701 90 51 0701 90 59	a)	41,59	576,08	81,87	312,01	14 257,76	6 954,35
		b)	248,77	274,54	32,55	80 747,82	92,26	8 387,50
		c)	351,92	1 688,95	28,14			
1.30	Onions (other than seed) 0703 10 19	a)	47,55	650,64	93,60	356,72	16 300,95	7 950,93
		b)	284,42	313,88	37,21	92 319,28	105,48	9 589,46
		c)	402,35	1 930,99	32,18			
1.40	Garlic 0703 20 00	a)	139,82	1 936,72	275,24	1 048,93	47 932,67	23 379,58
		b)	836,34	922,95	109,42	271 463,33	310,15	28 197,64
		c)	1 183,11	5 678,03	94,61			
1.50	Leeks ex 0703 90 00	a)	39,59	548,38	77,93	297,00	13 572,13	6 619,92
		b)	236,81	261,33	30,98	76 864,78	87,82	7 984,15
		c)	335,00	1 607,73	26,79			
1.60	Cauliflowers 0704 10 10 0704 10 05 0704 10 80	a)	75,84	1 050,50	149,29	568,95	25 999,24	12 681,36
		b)	453,64	500,62	59,35	147 244,88	168,23	15 294,73
		c)	641,73	3 079,83	51,32			
1.70	Brussels sprouts 0704 20 00	a)	59,69	826,80	117,50	447,79	20 462,75	9 980,88
		b)	357,04	394,01	46,71	115 889,33	132,40	12 037,74
		c)	505,07	2 423,99	40,39			
1.80	White cabbages and red cabbages 0704 90 10	a)	37,33	517,08	73,49	280,05	12 797,36	6 242,02
		b)	223,29	246,42	29,21	72 476,94	82,81	7 528,38
		c)	315,87	1 515,96	25,26			
1.90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> L. <i>convar. botrytis</i> (L.) <i>Alef</i> var. <i>italica</i> <i>Plenck</i>) ex 0704 90 90	a)	105,95	1 467,57	208,57	794,84	36 321,46	17 716,11
		b)	633,74	699,38	82,91	205 704,04	235,02	21 367,04
		c)	896,51	4 302,59	71,69			
1.100	Chinese cabbage ex 0704 90 90	a)	84,06	1 164,36	165,47	630,62	28 817,20	14 055,84
		b)	502,81	554,88	65,78	163 204,17	186,46	16 952,46
		c)	711,28	3 413,64	56,88			
1.110	Cabbage lettuce (head lettuce) 0705 11 10 0705 11 05 0705 11 80	a)	152,67	2 114,71	300,54	1 145,33	52 337,87	25 528,26
		b)	913,20	1 007,77	119,48	296 411,86	338,65	30 789,11
		c)	1 291,84	6 199,87	103,31			
1.120	Endives ex 0705 29 00	a)	21,82	302,24	42,95	163,69	7 480,27	3 648,57
		b)	130,52	144,03	17,08	42 363,97	48,40	4 400,46
		c)	184,63	886,10	14,77			
1.130	Carrots ex 0706 10 00	a)	49,26	682,32	96,97	369,55	16 887,17	8 236,86
		b)	294,65	325,17	38,55	95 639,28	109,27	9 934,31
		c)	416,82	2 000,43	33,33			
1.140	Radishes ex 0706 90 90	a)	173,89	2 408,64	342,31	1 304,52	59 612,45	29 076,49
		b)	1 040,13	1 147,85	136,08	337 610,91	385,72	35 068,57
		c)	1 471,39	7 061,60	117,67			
1.160	Peas (<i>Pisum sativum</i>) 0708 10 90 0708 10 20 0708 10 95	a)	379,98	5 263,29	748,00	2 850,61	130 263,60	63 537,22
		b)	2 272,87	2 508,25	297,36	737 738,77	842,88	76 630,95
		c)	3 215,25	15 430,84	257,12			

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.170	Beans:							
1.170.1	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	131,93 789,14 1 116,34	1 827,43 870,83 5 357,62	259,71 103,24 89,27	989,74 256 144,73	45 227,85 292,65	22 060,28 26 606,46
1.170.2	Beans (<i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus Savi</i>) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	196,37 1 174,60 1 661,61	2 720,02 1 296,24 7 974,51	386,56 153,67 132,88	1 473,17 381 256,28	67 318,97 435,59	32 835,42 39 602,13
1.180	Broad beans ex 0708 90 00	a) b) c)	157,74 943,53 1 334,74	2 184,94 1 041,24 6 405,76	310,52 123,44 106,74	1 183,37 306 255,36	54 075,95 349,90	26 376,02 31 811,58
1.190	Globe artichokes 0709 10 00	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
1.200	Asparagus:							
1.200.1	— green ex 0709 20 00	a) b) c)	380,79 2 277,71 3 222,10	5 274,51 2 513,59 15 463,73	749,60 298,00 257,67	2 856,69 739 311,40	130 541,29 844,67	63 672,66 76 794,30
1.200.2	— other ex 0709 20 00	a) b) c)	349,62 2 091,27 2 958,36	4 842,76 2 307,84 14 197,93	688,24 273,60 236,58	2 622,85 678 794,22	119 855,68 775,53	58 460,66 70 508,22
1.210	Aubergines (eggplants) 0709 30 00	a) b) c)	148,70 889,45 1 258,24	2 059,72 981,57 6 038,65	292,72 116,37 100,62	1 115,55 286 704,02	50 976,89 329,85	24 064,42 29 988,48
1.220	Ribbed celery (<i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	a) b) c)	76,32 456,51 645,79	1 057,15 503,79 3 099,32	150,24 59,73 51,64	572,55 148 176,81	26 163,79 169,29	12 761,62 15 391,53
1.230	Chantarelles 0709 51 30	a) b) c)	1 799,53 10 763,96 15 226,96	24 926,19 11 878,70 73 078,19	3 542,43 1 408,26 1 217,70	13 500,09 3 493 823,49	616 909,48 3 991,74	300 903,01 362 913,01
1.240	Sweet peppers 0709 60 10	a) b) c)	179,88 1 075,96 1 522,08	2 491,61 1 187,39 7 304,85	354,10 140,77 121,72	1 349,46 349 240,62	61 665,92 399,01	30 078,09 36 276,58
1.250	Fennel 0709 90 50	a) b) c)	73,55 439,94 622,35	1 018,78 485,50 2 986,84	144,79 57,56 49,77	551,77 142 798,80	25 214,39 163,15	12 298,44 14 832,90
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	a) b) c)	72,62 434,38 614,48	1 005,90 479,36 2 949,07	142,95 56,83 49,14	544,80 140 993,18	24 895,37 161,09	12 142,94 14 645,35
2.10	Chestnuts (<i>Castanea</i> spp.), fresh ex 0802 40 00	a) b) c)	140,29 839,15 1 187,08	1 943,23 926,05 5 697,12	276,17 109,79 94,93	1 052,46 272 375,84	48 093,80 311,19	23 458,17 28 292,42
2.30	Pineapples, fresh ex 0804 30 00	a) b) c)	78,76 471,11 666,44	1 090,94 519,89 3 198,41	155,04 61,64 53,30	590,86 152 914,12	27 000,27 174,71	13 169,62 15 883,61

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.40	Avocados, fresh ex 0804 40 90 ex 0804 40 20 ex 0804 40 95	a) b) c)	66,63 398,55 563,80	922,93 439,82 2 705,82	131,16 52,14 45,09	499,86 129 363,48	22 841,90 147,80	11 141,34 13 437,34
2.50	Guavas and mangoes, fresh ex 0804 50 00	a) b) c)	134,70 805,71 1 139,78	1 865,80 889,15 5 470,11	265,16 105,41 91,15	1 010,52 261 522,74	46 177,45 298,79	22 523,46 27 165,08
2.60	Sweet oranges, fresh:							
2.60.1	— Sanguines and semi-sanguines 0805 10 10	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamou- tis, ovalis, trovita and hamlins 0805 10 30	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.60.3	— Others 0805 10 50	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.70	Mandarins (including tangerines and satsu- mas), fresh; clementines, wilkings and simi- lar citrus hybrids, fresh:							
2.70.1	— Clementines 0805 20 10	a) b) c)	50,37 301,29 426,21	697,70 332,49 2 045,51	99,15 39,42 34,08	377,88 97 794,36	17 267,69 111,73	8 422,47 10 158,17
2.70.2	— Monreales and satsumas 0805 20 30	a) b) c)	84,38 504,72 713,99	1 168,79 556,99 3 426,64	166,10 66,03 57,10	633,02 163 825,46	28 926,90 187,17	14 109,35 17 017,00
2.70.3	— Mandarines and wilkings 0805 20 50	a) b) c)	53,59 320,55 453,46	742,30 353,75 2 176,27	105,49 41,94 36,26	402,03 104 046,06	18 371,56 118,87	8 960,89 10 807,55
2.70.4	— Tangerines and others ex 0805 20 70 ex 0805 20 90	a) b) c)	66,02 394,90 558,64	914,48 435,80 2 681,05	129,96 51,67 44,67	495,28 128 179,15	22 632,78 146,45	11 039,34 13 314,32
2.85	Limes (<i>Citrus aurantifolia</i>), fresh ex 0805 30 90	a) b) c)	130,20 778,80 1 101,70	1 803,47 859,45 5 287,37	256,30 101,89 88,10	976,76 252 785,90	44 634,77 288,81	21 771,00 26 257,56
2.90	Grapefruit, fresh:							
2.90.1	— white ex 0805 40 90 ex 0805 40 20 ex 0805 40 95	a) b) c)	48,55 290,40 410,81	672,49 320,48 1 971,60	95,57 37,99 32,85	364,22 94 260,80	16 643,77 107,69	8 118,14 9 791,13
2.90.2	— pink ex 0805 40 90 ex 0805 40 20 ex 0805 40 95	a) b) c)	53,93 322,58 456,34	747,01 355,99 2 190,08	106,16 42,20 36,49	404,58 104 706,17	18 488,12 119,63	9 017,74 10 876,12
2.100	Table grapes ex 0806 10 10	a) b) c)	159,26 952,62 1 347,60	2 205,99 1 051,28 6 467,48	313,51 124,63 107,77	1 194,77 309 206,48	54 597,04 353,27	26 630,18 32 118,12

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.110	Water melons 0807 11 00	a) b) c)	50,06 299,44 423,59	693,41 330,45 2 032,92	98,54 39,18 33,87	375,55 97 192,49	17 161,42 111,04	8 370,63 10 095,65
2.120	Melons (other than water melons):							
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onteniente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	a) b) c)	59,99 358,83 507,61	830,95 395,99 2 436,17	118,09 46,95 40,59	450,05 116 471,78	20 565,59 133,07	10 031,05 12 098,24
2.120.2	— other ex 0807 19 00	a) b) c)	119,44 714,44 1 010,66	1 654,42 788,42 4 850,41	235,12 93,47 80,82	896,04 231 895,15	40 946,06 264,94	19 971,80 24 087,59
2.140	Pears							
2.140.1	Pears — nashi (<i>Pyrus pyrifolia</i>) ex 0808 20 50	a) b) c)	152,71 913,44 1 292,18	2 115,26 1 008,04 6 201,49	300,61 119,51 103,34	1 145,63 296 489,52	52 351,58 338,74	25 534,94 30 797,18
2.140.2	Other ex 0808 20 50	a) b) c)	77,74 465,00 657,81	1 076,82 513,16 3 156,99	153,03 60,84 52,60	583,21 150 933,76	26 650,59 172,44	12 999,06 15 677,90
2.150	Apricots 0809 10 00	a) b) c)	111,49 666,88 943,39	1 544,30 735,95 4 527,56	219,47 87,25 75,44	836,40 216 460,06	38 220,67 247,31	18 642,47 22 484,30
2.160	Cherries 0809 20 05 0809 20 95	a) b) c)	296,82 1 775,44 2 511,58	4 111,40 1 959,31 12 053,74	584,30 232,28 200,85	2 226,75 576 281,97	101 754,94 658,41	49 631,87 59 859,99
2.170	Peaches 0809 30 90	a) b) c)	157,34 941,14 1 331,35	2 179,40 1 038,60 6 389,51	309,73 123,13 106,47	1 180,37 305 478,76	53 938,83 349,01	26 309,14 31 730,92
2.180	Nectarines ex 0809 30 10	a) b) c)	174,73 1 045,15 1 478,50	2 420,27 1 153,39 7 095,72	343,96 136,74 118,24	1 310,83 339 241,79	59 900,41 387,59	29 216,95 35 237,97
2.190	Plums 0809 40 05	a) b) c)	180,40 1 079,07 1 525,48	2 498,81 1 190,82 7 325,97	355,12 141,18 122,07	1 353,36 350 250,21	61 844,19 400,17	30 165,04 36 381,45
2.200	Strawberries 0810 10 10 0810 10 05 0810 10 80	a) b) c)	152,83 914,16 1 293,19	2 116,92 1 008,83 6 206,37	300,85 119,60 103,42	1 146,53 296 722,50	52 392,72 339,01	25 555,01 30 821,38
2.205	Raspberries 0810 20 10	a) b) c)	1 368,45 8 185,44 11 579,32	18 955,09 9 033,14 55 572,21	2 693,83 1 070,91 926,00	10 266,13 2 656 873,04	469 127,92 3 035,51	228 822,26 275 976,68
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	a) b) c)	966,98 5 784,03 8 182,23	13 394,12 6 383,03 39 269,67	1 903,53 756,73 654,33	7 254,29 1 877 411,01	331 497,18 2 144,96	161 690,66 195 011,82
2.220	Kiwi fruit (<i>Actinidia chinensis Planch.</i>) 0810 50 10 0810 50 20 0810 50 30	a) b) c)	136,55 816,78 1 155,44	1 891,42 901,37 5 545,24	268,80 106,86 92,40	1 024,40 265 114,55	46 811,66 302,90	22 832,80 27 538,18

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.230	Pomegranates ex 0810 90 85	a)	156,12	2 162,50	307,33	1 171,21	53 520,59	26 105,14
		b)	933,84	1 030,55	122,18	303 110,10	346,31	31 484,88
		c)	1 321,03	6 339,97	105,64			
2.240	Khakis (including sharon fruit) ex 0810 90 85	a)	304,96	4 224,15	600,32	2 287,81	104 545,47	50 992,97
		b)	1 824,13	2 013,04	238,65	592 085,94	676,47	61 501,59
		c)	2 580,46	12 384,30	206,36			
2.250	Lychees ex 0810 90 30	a)	787,23	10 904,32	1 549,69	5 905,81	269 875,83	101 634,30
		b)	4 708,85	5 196,51	616,06	1 528 422,79	1 746,24	158 761,46
		c)	6 661,25	31 969,10	532,70			

COMMISSION REGULATION (EC) No 1000/98

of 13 May 1998

amending Annexes I and II to Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2377/90 of 26 June 1990 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin⁽¹⁾, as last amended by Commission Regulation (EC) No 613/98⁽²⁾, and in particular Articles 6, 7 and 8 thereof,

Whereas, in accordance with Regulation (EEC) No 2377/90, maximum residue limits must be established progressively for all pharmacologically active substances which are used within the Community in veterinary medicinal products intended for administration to food-producing animals;

Whereas maximum residue limits should be established only after the examination within the Committee for Veterinary Medicinal Products of all the relevant information concerning the safety of residues of the substance concerned for the consumer of foodstuffs of animal origin and the impact of residues on the industrial processing of foodstuffs;

Whereas, in establishing maximum residue limits for residues of veterinary medicinal products in foodstuffs of animal origin, it is necessary to specify the animal species in which residues may be present, the levels which may be present in each of the relevant meat tissues obtained from the treated animal (target tissue) and the nature of the residue which is relevant for the monitoring of residues (marker residue);

Whereas, for the control of residues, as provided for in appropriate Community legislation, maximum residue limits should usually be established for the target tissues of liver or kidney; whereas, however, the liver and kidney are frequently removed from carcasses moving in international trade, and maximum residue limits should therefore also always be established for muscle or fat tissues;

Whereas, in the case of veterinary medicinal products intended for use in laying birds, lactating animals or honey bees, maximum residue limits must also be established for eggs, milk or honey;

Whereas thiabendazole, flubendazole, thiamphenicol, doxycycline and oxibendazole should be inserted into Annex I to Regulation (EEC) No 2377/90;

Whereas sodium selenite, sodium selenate and potassium selenate should be inserted into Annex II to Regulation (EEC) No 2377/90;

Whereas a period of 60 days should be allowed before the entry into force of this Regulation in order to allow Member States to make any adjustment which may be necessary to the authorisations to place the veterinary medicinal products concerned on the market which have been granted in accordance with Council Directive 81/851/EEC⁽³⁾, as last amended by Directive 93/40/EEC⁽⁴⁾, to take account of the provisions of this Regulation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Veterinary Medicinal Products,

HAS ADOPTED THE FOLLOWING REGULATION:

Article 1

Annexes I and II to Regulation (EEC) No 2377/90 are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on the 60th day following its publication in the *Official Journal of the European Communities*.

⁽¹⁾ OJ L 224, 18. 8. 1990, p. 1.

⁽²⁾ OJ L 82, 19. 3. 1998, p. 14.

⁽³⁾ OJ L 317, 6. 11. 1981, p. 1.

⁽⁴⁾ OJ L 214, 24. 8. 1993, p. 31.

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

Done at Brussels, 13 May 1998.

For the Commission
Martin BANGEMANN
Member of the Commission

ANNEX

A. Annex I to Regulation (EEC) No 2377/90 is amended as follows:

1. Anti-infectious agents

1.2. Antibiotics

1.2.6. Tetracyclines

Pharmacologically active substance(s)	Marker residue	Animal species	MRLs	Target tissues	Other provisions
Doxycycline	Doxycycline	Bovine	100 µg/kg	Muscle	
			300 µg/kg	Liver	
			600 µg/kg	Kidney	
		Porcine, poultry	100 µg/kg	Muscle	
			300 µg/kg	Skin and fat	
			300 µg/kg	Liver	
600 µg/kg	Kidney'				

1.2.7. Thiamphenicol and related compounds

Pharmacologically active substance(s)	Marker residue	Animal species	MRLs	Target tissues	Other provisions
Thiamphenicol	Thiamphenicol	Bovine	50 µg/kg	Muscle	
			50 µg/kg	Fat	
			50 µg/kg	Liver	
			50 µg/kg	Kidney	
			50 µg/kg	Milk	
		Chicken: Not for use in animals from which eggs are produced for human consumption	50 µg/kg	Muscle	
			50 µg/kg	Skin and fat	
			50 µg/kg	Liver	
			50 µg/kg	Kidney'	

2.1.3. Benzimidazoles and pro-benzimidazoles

Pharmacologically active substance(s)	Marker residue	Animal species	MRLs	Target tissues	Other provisions
'Flubendazole	Sum of flubendazole and (2-amino 1H-benzimidazol-5-yl) (4-fluorophenyl)methanone Flubendazole	Porcine, chicken, game birds Chicken	50 µg/kg 400 µg/kg 300 µg/kg 400 µg/kg	Skin and fat Liver Kidney Eggs	
Oxibendazole	Oxibendazole	Porcine	100 µg/kg 500 µg/kg 200 µg/kg 100 µg/kg	Muscle Skin and fat Liver Kidney	
Thiabendazole	Sum of thiabendazole and 5-hydroxythiabendazole	Bovine	100 µg/kg 100 µg/kg 100 µg/kg 100 µg/kg 100 µg/kg	Muscle Fat Liver Kidney Milk'	

B. Annex II to Regulation (EEC) No 2377/90 is amended as follows:

1. Inorganic chemicals

Pharmacologically active substance(s)	Animal species	Other provisions
'Potassium selenate	All food producing species	
Sodium selenate	All food producing species	
Sodium selenete	All food producing species'	

COMMISSION REGULATION (EC) No 1001/98

of 13 May 1998

amending Regulation (EEC) No 536/93 laying down detailed rules on the application of the additional levy on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3950/92 of 28 December 1992 establishing an additional levy in the milk and milk products sector⁽¹⁾, as last amended by Commission Regulation (EC) No 903/98⁽²⁾, and in particular Article 11 thereof,

Whereas Article 3(2) of Commission Regulation (EEC) No 536/93 of 9 March 1993 laying down detailed rules on the application of the additional levy on milk and milk products⁽³⁾, as last amended by Regulation (EC) No 2186/96⁽⁴⁾, provides for a penalty if purchasers do not observe the time limit for communication of the information on the deliveries referred to in that paragraph;

Whereas the basis for the proper administration of the milk quota arrangements is the strict observance of a precise timetable; whereas two particular dates in that timetable are 14 May, the time limit for the declaration by purchasers to the Member State's competent authority of collection information, and 31 August, the time limit for payment by purchasers to the competent body of the levy due from them;

Whereas the information which purchasers need to be able to forward collection information before 15 May is already in their possession in April;

Whereas non-observance of the time limit of 14 May by purchasers is likely to hamper the competent authorities in their task of completing the calculation work necessary to determine quota overruns and sums due; whereas the more a purchaser delays communication of the information, the more serious are the consequences for the competent authorities which have to ensure payment of the levy before the time limit;

Whereas experience shows that to make the penalty more effective and to ensure that the size of the penalty is in proportion to the seriousness of the offence, the penalty applicable where the delay exceeds 15 days should be

increased and provision should be made for increasing penalties for additional delays;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3(2) second subparagraph of Regulation (EEC) No 536/93, is hereby replaced by the following:

'Where that time limit is not observed, the purchaser shall be liable to a penalty calculated as follows:

- if the communication referred to in the first subparagraph is made before 1 June, the penalty shall be equal to the amount of the levy due for a 0,1 % overrun on the quantities of milk and milk equivalent delivered to them by producers. Such penalty may not be less than ECU 500 nor more than ECU 20 000,
- if the communication referred to in the first subparagraph is made after 31 May but before 16 June, the penalty shall be equal to the amount of the levy due for a 0,2 % overrun on the quantities of milk and milk equivalent delivered to them by producers. Such penalty may not be less than ECU 1 000 nor more than ECU 40 000,
- if the communication referred to in the first subparagraph is made after 15 June but before 1 July, the penalty shall be equal to the amount of the levy due for a 0,3 % overrun on the quantities of milk and milk equivalent delivered to them by producers. Such penalty may not be less than ECU 1 500 nor more than ECU 60 000,
- if the communication referred to in the first subparagraph is not made before 1 July, the penalty shall be that referred to in the third indent plus an amount equal to 3 % of that penalty for each calendar day of delay from 1 July. Such penalty may not exceed ECU 100 000.

However, if the quantities of milk or milk equivalent delivered to the purchaser per period of 12 months are less than 100 000 kilograms, the minimum penalties referred to in the first three indents shall be reduced to ECU 100, 200 and 300 respectively.'

⁽¹⁾ OJ L 405, 31. 12. 1992, p. 1.

⁽²⁾ OJ L 127, 29. 4. 1998, p. 8.

⁽³⁾ OJ L 57, 10. 3. 1993, p. 12.

⁽⁴⁾ OJ L 292, 15. 11. 1996, p. 6.

Article 2

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

However, the minimum penalties referred to in Article 1 shall apply only from 1999.

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

Done at Brussels, 13 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1002/98

of 13 May 1998

imposing a provisional anti-dumping duty on imports of unwrought unalloyed magnesium originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as last amended by Regulation (EC) No 905/98⁽²⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) A complaint concerning imports of unwrought unalloyed magnesium originating in the People's Republic of China was lodged on 7 July 1997 by the Comité de Liaison des Industries de Ferro-Alliages (Euro Alliages) on behalf of the sole known Community producer of that product, Pechiney Electrometallurgie, France (PEM). The complaint contained evidence of dumping of the product concerned originating in the People's Republic of China and of material injury resulting therefrom.
- (2) Having decided, after consultation, that there was sufficient evidence to justify the initiation of a proceeding, the Commission announced the opening of an investigation by notice published in the *Official Journal of the European Communities*⁽³⁾ (hereinafter referred to as 'notice of initiation').
- (3) The Commission officially advised the producers, exporters and importers known to be concerned, the representatives of the exporting country and the complainant of the initiation of an investigation and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.
- (4) The Commission sent questionnaires to the parties known to be concerned and to those who identified

themselves within the time period stipulated in the notice of initiation. Replies to these questionnaires were received from the sole Community producer, 10 Chinese exporters, three unrelated importers in the Community and an unrelated trader located in Switzerland. In addition, six users and an association of users in the Community replied to the Commission's questionnaire and provided information which was sufficiently complete so that it could be used for the assessment of Community interest.

- (5) The Commission then sought and verified all information it deemed necessary for the purpose of a preliminary determination and carried out investigation visits at the premises of the following companies:

— *Community producer:*

— Pechiney Electrometallurgie, France.

— *Analogue country producer:*

— Norsk Hydro ASA, Hydro Magnesium Norge, Porsgrunn, Norway,
and the sales coordination company,

— Hydro Magnesium Marketing SA, Belgium.

— *Importers in the Community:*

— Ayrton and Partners Ltd, United Kingdom,

— EHC Egger Consulting and Handelsgesellschaft GmbH, Germany,

— NV Specialty Metals SA, Belgium.

Although the Commission did not carry out an investigation visit at the premises of the trader, Ferrolegeringar AG, Switzerland, information included in its response was used (in conjunction with the responses from the three Community based importers) because it was considered reliable.

- (6) The investigation of dumping covered the period 1 July 1996 to 30 June 1997 (hereinafter referred to as the 'investigation period'). The examination of injury covered the period from 1993 up to the end of the investigation period.
- (7) The present proceeding follows an earlier anti-dumping proceeding concerning the same product originating in Russia, the Ukraine and Kazakhstan which resulted in anti-dumping measures consist-

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 128, 30. 4. 1998, p. 18.

⁽³⁾ OJ C 256, 21. 8. 1997, p. 3.

ing of a variable anti-dumping duty for imports from Russia and the Ukraine with the exception of certain cooperating companies in these countries from which undertakings were accepted. With regard to imports from Kazakhstan⁽¹⁾ the proceeding was terminated, without the adoption of protective measures.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(8) The product covered by the complaint is unwrought unalloyed magnesium. Unwrought magnesium is available as either pure, i.e. unalloyed, magnesium containing minor quantities of impurities or as alloyed magnesium with alloying elements such as aluminium and zinc added. The present proceeding concerns only unwrought unalloyed magnesium.

(9) The two main types of production processes used in the production of magnesium are the thermic processes and the electrolytic processes.

In both of these processes, a variety of raw materials can be used due to the natural occurrence of magnesium in several different compounds, e.g. dolomite, carnalite, sea water.

(10) Unwrought unalloyed magnesium is generally sold in ingots. The weight of these ingots can vary from a few hundred grams to hundreds of kilograms. The main uses of unwrought unalloyed magnesium are as follows:

- as an alloying element in the production of aluminium alloys,
- desulphurisation of steel,
- iron nodularisation,
- chemical applications, e.g. titanium production,
- others, e.g. anode production, pharmaceutical and military applications.

(11) Unwrought unalloyed magnesium in all forms, from different production processes, has only minor differences with regard to the proportion of impurities and physical appearance, it is to a great extent interchangeable in terms of end uses and thus different types of unwrought unalloyed magnesium compete with each other.

⁽¹⁾ Council Regulation (EC) No 1347/96 (OJ L 174, 12. 7. 1996, p. 1); Commission Decision 96/422/EC (OJ L 174, 12. 7. 1996, p. 32).

Therefore, it was concluded that all types of unwrought unalloyed magnesium form one single product for the purpose of this proceeding.

2. Like product

(12) In the course of the investigation, it was established that unwrought unalloyed magnesium originating in the People's Republic of China and sold for export to the European Community, as well as unwrought unalloyed magnesium manufactured and sold by the Community producer in the Community market and unwrought unalloyed magnesium manufactured and sold in the analogue country, Norway, are alike within the meaning of Article 1(4) of Regulation (EC) No 384/96 (hereinafter referred to as the 'basic Regulation'), as the basic physical and technical characteristics and uses in all these cases are the same or closely resembling.

(13) The product under consideration is currently classifiable within CN codes 8104 11 00 and ex 8104 19 00. While CN code 8104 11 00 covers unwrought unalloyed magnesium containing at least 99,8 % by weight of magnesium, CN code 8104 19 00 covers other unwrought unalloyed magnesium as well as unwrought unalloyed magnesium.

The Chinese exporters have argued that since an insignificant proportion of unwrought unalloyed magnesium (hereinafter also referred to as 'magnesium') is imported under CN code 8104 19 00, this code should be excluded from the scope of the investigation. While it appears that none of the imports from the People's Republic of China, by cooperating exporters, were made under this CN code (and none of the Norwegian domestic sales would have fallen into this code), to exclude it may encourage circumvention of any measures through an increase in the exports to the Community of the product concerned entering under this code and therefore, the Commission does not consider appropriate such exclusion.

C. DUMPING

1. Analogue country

(a) *Analogue country*

(14) Since the People's Republic of China is considered to be non-market economy country, normal value has to be determined by reference to a market economy analogue country, in accordance with Article 2(7) of the basic Regulation.

As analogue country, the complainant had suggested Norway claiming that this country was an appropriate selection. Norway was also used as an analogue country in the previous proceeding concerning imports of the same product originating in Russia, the Ukraine and Kazakhstan.

The cooperating Chinese exporters filed comments concerning the choice of Norway as an analogue country. Although they did not propose any alternative market economy third country, nor did any other interested party, they argued that Norwegian domestic sales prices could not be compared in a fair manner to Chinese export prices, as the level of development of the Norwegian economy was considerably higher than that of the People's Republic of China and the sole producer in Norway was the largest in the world, whereas the Chinese producers were mostly small companies.

In respect of this argument, the fact that the largest producer in the world of the product concerned operates in a modern, efficient and cost conscious environment, as has been found to be the case, is considered to be much more relevant for establishing normal value in this investigation than the overall comparative level of development of the Norwegian economy. It follows that the selection of Norway as the analogue country does not appear to be unreasonable in this region.

- (15) The Chinese exporters further argued that the method of production used by the Norwegian producer, i.e. the electrolytic method, was different to the thermic method used predominantly by the Chinese producers, i.e. the Pidgeon method, and therefore, it would not be possible to make a fair comparison for the purposes of calculating the dumping margin.

With regard to the different technology, the Norwegian producer operates in a highly cost efficient environment, which is the result of continuous research and investment. This led to the conclusion that it is unlikely that the production method used by the Chinese producers is more efficient than that employed by the Norwegian producer, and that, accordingly, costs and prices in Norway would be inflated by the production process used by the Norwegian producer. For this reason it was provisionally concluded that the Chinese producers did not enjoy any comparative advantage as compared to the Norwegian producer with respect of the production technology used and therefore, no allowance was granted in this regard.

- (16) In its decision to select Norway as an analogue country, the Commission also considered the following:
- the like product is produced and sold on the Norwegian domestic market in representative

quantities as compared with the volume of Chinese exports of the product concerned to the Community,

- there are significant imports of unwrought magnesium from third countries into Norway with the consequence that there is a competitive environment in this market,
- there are no trade restrictions concerning imports of the product concerned into Norway, which could distort the competitive environment,
- the Norwegian producer has a highly efficient production process and has continuously invested in this process over the years,
- the Norwegian producer has very good access to the principal raw materials (dolomite and sea water) used in the production process. The production plant is located on the sea which allows unlimited access to sea water and facilitates reception of raw materials and distribution of finished products. Dolomite is also sourced in Norway,
- there is a significant supply of local low cost electricity.

In view of all the considerations outlined above, the Commission considered it appropriate to take Norway as the analogue country for the determination of normal value in respect of imports of magnesium from the People's Republic of China.

(b) *Determination of normal value*

- (17) The Commission ascertained that the different purities and sizes of ingots of the product concerned could be used interchangeably for the same end uses. The interchangeability was also confirmed by an overlap in prices. Under these circumstances, a single normal value was established for all categories, i.e. purities and sizes.
- (18) Sales of the like product by the Norwegian producer during the investigation period were made in sufficient quantities since they accounted for substantially more than 5 % of the quantities of the product concerned originating in the People's Republic of China sold for export to the Community.
- (19) The Commission further examined whether the domestic sales of the like product could be considered as being made in the ordinary course of trade by reason of price, i.e. as not being made at a loss.

For this purpose the full unit costs of domestic sales during the investigation period, was compared to the price of each domestic sales transaction made during that period. It was found that more than 80 % of the volume of the domestic sales had been made at a profit.

As a result, normal value was established as the weighted average domestic sales price for all transactions to independent customers, as established for the sole Norwegian producer, Hydro Magnesium Norge.

2. Export price

- (20) Eight out of the 10 Chinese exporters which replied to the Commission's questionnaire had export sales in the Community to independent customers only. For them, the export prices were established on the basis of the prices actually paid or payable for the product when sold for export from the People's Republic of China to the Community, in accordance with Article 2(8) of the basic Regulation.
- (21) The two other Chinese exporters sold to related selling companies in the Community and submitted questionnaire responses which omitted the necessary information requested with regard to sales of the product concerned by their related companies to unrelated customers in the Community market. One of these two exporters made no export sales directly to unrelated customers in the Community while the other sold to both related and unrelated customers in the Community.

In the case of the latter exporter, it was decided that the prices reported in the questionnaire reply, concerning sales to unrelated customers in the Community, would be taken into account. However, with regard to sales made by the two exporters to the Community via their related selling companies, the export price was calculated on the same basis as was applied for all other non-cooperating companies, as described below, i.e. on the basis of the facts available in accordance with Article 18 of the basic Regulation.

- (22) The detailed information concerning sales volume to unrelated customers in the Community received from the Chinese exporters which replied to the Commission's questionnaires accounted for about 60 % of the total import volume into the Com-

munity from the People's Republic of China, as recorded in Eurostat for the product concerned during the investigation period. The export price for the remaining import volume from non-cooperating exporters had to be established on the basis of the facts available, in accordance with Article 18 of the basic Regulation. Since the level of non-cooperation was significant and in order to avoid parties benefiting from their non-cooperation, the Commission considered it appropriate to establish that the lowest weighted average export price found for a cooperating Chinese exporter with a representative export volume was the export price applicable to the remaining sales volume from non-cooperating exporters.

3. Comparison

- (23) The Commission compared the normal value and the export prices on a fob Chinese/Norwegian frontier basis and at the same level of trade.

For the purpose of ensuring a fair comparison between normal value and export prices, adjustments were made wherever appropriate to account for differences affecting price comparability. Thus, adjustments were made with regard to transport, insurance, handling, loading and ancillary costs, credit costs and level of trade in accordance with Article 2(10) of the basic Regulation.

- (24) The Chinese exporters have claimed allowances for physical differences and quality differences between the Chinese magnesium and Norwegian magnesium. They have alleged that the quality of the Chinese product is unreliable, (i.e. it is more susceptible to oxidation, possibly as a result of exposure to water during the sea voyage) and that consequently, the Chinese product suffers from an inferior user perception. However, they have not provided any evidence which would have allowed quantification of their claimed differences and no adjustment was, therefore, granted at this provisional stage.

4. Dumping margin

- (25) The comparison of the weighted average normal value with the weighted average export price as established above revealed the existence of dumping, the dumping margin being equal to the amount by which normal value exceeds the export

price. The single weighted average dumping margin for all Chinese exporters, expressed as a percentage of the cif export price free at Community frontier amounted to 40,6 %.

D. INJURY

1. Introduction

- (26) The information supplied below on the Community industry has been indexed for reasons of confidentiality, as it relates to a single Community producer.
- (27) The Commission has examined the period 1993 until the investigation period but has concentrated on the period from 1995 to the end of the investigation period in the analysis of injury, as imports of magnesium from the People's Republic of China were less than 1 % of Community consumption in terms of volume in 1993 and 1994.
- (28) Eurostat was used as the source of the import data used in the injury analysis (together with export data submitted by the exporters) whereas Community industry data was obtained from the verified questionnaire response.

2. The Community market

(a) Consumption

- (29) The total consumption in the Community was established on the basis of the total imports of the product concerned into the Community (Eurostat import statistics), plus the total verified sales made by the Community industry on the Community market.

With 1993 as 100, consumption in the Community developed, in volume terms, to 162 in 1994, 166 in 1995, 150 in 1996 and 173 in the investigation period, i.e. an increase of 73 % over the whole period examined.

(b) Factors relating to the dumped imports

(i) Volume of the dumped imports

- (30) During the period under examination, i.e. from 1993 to the investigation period, the volume of Chinese exports increased substantially.

In 1993 Chinese exports into the Community amounted to 205 tonnes. Between 1995 and 1996, they increased over 300 %, and between 1996 and the investigation period there was a further advance

of over 170 % thus reaching a volume of 15 534 tonnes.

(ii) Market share of the dumped imports

- (31) Market share of imports from the People's Republic of China (in volume) rose throughout the period from 0,5 % in 1993 and 1994 to 4,2 % in 1995 and 22,8 % during the investigation period. This development resulted in the People's Republic of China becoming the second largest supplier in the Community market.

(iii) Prices of the dumped imports

- (32) From 1993 to 1995 import prices rose by 24 % mainly as a consequence of overall increasing demand in that period. However, between 1995 and the investigation period, (i.e. when import volumes from the People's Republic of China were increasing significantly) import prices fell substantially, i.e. by 31,5 %, to levels below those prevailing in 1993.

(c) Price undercutting of the dumped imports

- (33) A comparison of sales prices of the Community industry with those of the Chinese exporters on the Community market for the investigation period showed a weighted average price undercutting margin of 45,5 %. This comparison was made at the same level of trade. Since the Chinese exporters sold to traders, who in turn resold to end-users, whereas the Community industry sold directly to end-users, the Community industry's sales prices were adjusted downwards, deducting transport and certain sales expenses, thus resulting in a price comparable to the cif import prices.

3. Situation of the Community industry

(a) Introduction

- (34) It should be borne in mind that in the previous anti-dumping proceeding concerning imports of the same product originating in Russia, the Ukraine and Kazakhstan, it was determined that the Community industry suffered material injury as a result of the dumped imports from two of these countries.

It should also be noted that, in general, prices of magnesium on the Community market rose in 1995, due to increasing demand. This led to the brief improvement in the performance of the Community industry in that year, as evidenced by the rise in the industry's sales volumes and prices between 1994 and 1995. This improvement was

followed by the deterioration described below, despite the introduction in 1995 of anti-dumping measures on imports of magnesium originating in Russia and the Ukraine.

(b) *Production, production capacity and capacity utilisation*

- (35) Production over the period 1995 to the investigation period decreased by 5 % whereas production capacity was static. The capacity utilisation rate of the Community industry decreased therefore from 85 % to 81 % during this period.

(c) *Sales volume, value and prices*

- (36) The sales made by the Community industry on the Community market during the period 1995 to the investigation period decreased in volume by 28 %, and in value by 36 %.

The average sales price of magnesium sold by the Community industry on the Community market between 1995 and the investigation period decreased by 11 %.

(d) *Market share*

- (37) The Community industry's share of the Community market in terms of volume decreased from 15,5 % in 1995 to 10,7 %, i.e. by 31 %, in the investigation period. The corresponding value figures were 18,4 % and 12,7 % respectively.

(e) *Profitability*

- (38) After losses in 1993 and 1994, profitability defined as the return on turnover became positive again in 1995 due to an increase in demand on the EU market. However, profitability declined substantially between 1995 and the investigation period (on an index base 1995 = 100, 1996 = 110 and the investigation period = 35). This decline was mainly due to the substantial decreases in both sales volumes and values described at recital 36.

(f) *Employment*

- (39) Between 1995 and the investigation period employment in the Community industry decreased by 9 %. Since the product concerned constitutes the majority of the production of the sole magnesium plant of the Community producer, the viability of the whole plant would be jeopardised if injury is not removed.

4. Conclusion on injury

- (40) The above findings show that, between 1995 and the investigation period, the Community industry

suffered material injury consisting of a reduction in sales volume and value, market share, profitability and employment levels.

E. CAUSATION OF INJURY

- (41) The Commission examined whether the injury suffered by the Community industry was caused by the dumped imports from the People's Republic of China, and whether other factors had caused injury or contributed to it in order to ensure that injury caused by other factors was not attributed to the dumped imports concerned.

In this context, it has already been found in the previous anti-dumping proceeding relating to magnesium originating, *inter alia*, in Russia and the Ukraine, that the Community market for the product concerned is price sensitive and transparent, with the consequence that the mere availability of low priced imports has an immediate impact on the situation of the Community market overall. No information has been obtained in the course of the present proceeding which would contradict this finding.

1. Effect of the dumped imports

- (42) After anti-dumping measures were imposed on imports of magnesium from Russia and the Ukraine (i.e. from 20 December 1995) imports from these two countries have fallen from 17 700 tonnes in 1995 to 8 969 tonnes in the investigation period (a reduction of 8 731 tonnes or 49 %). The reduction in imports volumes from Russia and the Ukraine has however been more than counter-balanced by imports from the People's Republic of China, which have risen over the same period from 2 753 tonnes to 15 534 tonnes — an increase of 12 781 tonnes or 464 %. These imports were made at much lower prices than the average price prevailing on the Community market, and undercut the Community industry's prices significantly, at a time when the Community industry could have expected to benefit from the effects of anti-dumping measures and an expanding market. It is evident that in these circumstances price suppression took place.

Indeed, the cif Community frontier prices of Chinese imports decreased by 31,5 % between 1995 and the investigation period. At this time, the Chinese prices were the lowest prices of all significant sellers on the Community magnesium market, and were 17 % below the average import prices and 19 % lower than the average of all prices on the Community market.

- (43) It is apparent that the deteriorating situation of the Community industry coincided with the growth of volume of Chinese imports made at dumped prices. After a brief recovery in 1995, the situation of the Community industry deteriorated considerably up to the investigation period; dumped imports from the People's Republic of China grew at volumes that can only be characterised as remarkable between 1995 and the end of the investigation period.

2. Imports from other countries

- (44) Imports into the Community originating, *inter alia*, in Norway, the USA and Canada were examined to assess whether, and to what extent, they had caused injury to the Community industry.

(a) Norway

- (45) As market leader in the Community market throughout the period examined, imports from Norway have had a strong influence on the market. The Norwegian producer increased export volumes, market share and share of total imports into the Community between 1995 and the investigation period, when Norway's share of the Community market was 31,3 %. However, between 1995 and the investigation period, the prices of exports from Norway have remained significantly above the average import and market prices in the Community.

(b) USA and Canada

- (46) From 1995 to the investigation period, import volumes from these two countries taken together decreased from 12 533 to 9 932 tonnes. In the same period, prices of imports from the USA rose by 7 %, while the prices of imports from Canada were the highest of all countries exporting to the Community, being 22 % higher than the average import price.

(c) Russia and the Ukraine

- (47) After the imposition of anti-dumping measures on Russian and Ukrainian magnesium imports, the volume of imports from these countries fell by 49 % and their value by 55 %. Their joint market share by volume also fell from 27,2 % in 1995 to 13,2 % in the investigation period. The weighted average price of imports from these countries in the investigation period was 14,5 % above that of imports of the product concerned from the People's Republic of China.

3. Conclusion on causation

- (48) Given the fact that magnesium is a homogeneous commodity-type product, sold in a highly transparent and price sensitive market, the Commission considers that imported magnesium originating in the People's Republic of China has had a significant negative impact on the Community market, and hence on the situation of the sole Community producer.

The Community industry could not benefit from the effect of anti-dumping measures imposed on imports from Russia and the Ukraine, as these were more than outweighed by an increase in imports from the People's Republic of China at dumped prices. Indeed, between 1995 and the investigation period, the volume of imports from the People's Republic of China rose by 464 % while those from Russia and the Ukraine halved. Furthermore, compared to the increase in imports from the People's Republic of China, the increase in imports from Norway is modest and cannot have broken the causal link between the imports subject to the investigation and the material injury suffered by the Community industry.

Consequently, the Commission is of the opinion that the dumped imports from the People's Republic of China have, when taken in isolation, caused material injury to the Community industry. The fact that the pricing behaviour of Chinese exporters to the Community is in sharp contrast to that of the other market participants points to the conclusion that dumped imports from the People's Republic of China have indeed caused material injury.

F. COMMUNITY INTEREST

1. The Community interest investigation

- (49) In accordance with Article 21 of the basic Regulation, and in order to evaluate whether the imposition of anti-dumping measures would be against the interest of the Community as a whole, the Commission examined the impact of imposition or non-imposition of measures on the various interests involved. As already mentioned at recital 4, the Commission sent questionnaires to known or potential industrial users of the product concerned, as follows:

— 11 questionnaires to associations of industries operating in the sectors of major use of the product concerned in the Community,

- 75 questionnaires to individual companies (in the sectors of aluminium, steel, chemistry, magnesium alloys and other magnesium processing).

Questionnaire responses were received within the time limits set from:

- two companies processing magnesium into granules, powders and alloys (Magnesium Elektron, a division of British Aluminium Ltd, United Kingdom and Pometon SpA, Italy),
- one association of German steel producers (Wirtschaftsvereinigung Stahl),
- five companies in the steel manufacturing sector, all members of the abovementioned association (Hüttenwerke Krupp Mannesmann GmbH, Preussag Stahl AG, Saarstahl AG, Thyssen Krupp Stahl GmbH, AG der Dillinger Hüttenwerke).

2. The Community industry

- (50) As mentioned above, anti-dumping measures were imposed in 1996 on imports of magnesium originating in Russia and the Ukraine. The dumped imports from the People's Republic of China subject to the present proceeding have caused new injury to the Community industry, and prevented it from recovering from the effects of previous dumping.

Failure to address this continued injury would bring into question the viability of the sole Community producer, especially bearing in mind the trends in Chinese exports to the Community between 1995 and mid-1997 (sharply increasing volumes, decreasing prices), the wide range of different sources of supply of the product (see recitals 44 to 47), and the trade-diverting effects of the anti-dumping duty (108 %) imposed in 1995 on Chinese imports of this product into the USA.

3. Traders/Importers

- (51) Cooperating traders/importers represent 11 % (by volume) of the imports into the Community of the product concerned during the investigation period.

Except for one company, for which the product concerned represents the almost exclusive activity, traders appear to deal in a wide range of different metals. For the other three companies, the turnover

on the Community market of the product subject to investigation, expressed as a percentage of their total sales, ranges between 2 and 16 %. Their estimation of total staff numbers directly occupied by the product concerned amounts to less than 10 for the cooperating companies.

All traders/importers are against protective measures, arguing that the Community industry has insufficient capacity to meet demand, and that the negative effect for users of any price increase following the introduction of measures would outweigh the benefit for the Community industry. This contention has been examined.

As far as the balance between supply and demand is concerned, it should be recalled that anti-dumping measures are intended to remove only the trade distortion caused by dumping. Indeed, the history of this product has shown that total imports actually increased substantially, notwithstanding the imposition of protective measures in 1995. The market share of imports increased from 78,4 % in 1995 to 83,5 % in the investigation period. In view of the numerous sources of supply of the product concerned, a possible market shortage, if measures are adopted, is therefore unlikely.

4. Interest of the users

- (52) The users are:

- the aluminium founders (*circa* 50 % of the 1996 consumption on the Community market), and
- the manufacturers of magnesium-based alloys, magnesium turnings, granules and powders (*circa* 50 % of the market),
- steel manufacturers.

(a) Aluminium founders

- (53) No aluminium manufacturer (or association thereof) made itself known or replied to questionnaires sent in the course of this investigation.

On the basis of information available to the Commission, the content of magnesium used to produce aluminium varies between 3 and 5 % of total raw material input. The impact of any anti-dumping duty on manufacturing costs can therefore be deemed as marginal. This would also explain the lack of cooperation from users in this sector.

(b) *Magnesium alloys, turnings, granules and powder manufacturers*

- (54) The two companies mentioned above that have cooperated represent less than 10 % of the Community consumption of the product concerned, with varying volumes of magnesium of Chinese origin. Total staff employed in production using the product concerned amounts to *circa* 300 people, the vast majority of whom are in alloys. However, labour intensiveness varies considerably according to the products manufactured, i.e. either magnesium-based alloys (which are used in the automotive, pharmaceutical and nuclear industries), or granules (used in chemical industries and by the steel industry as a desulphurising agent). Value added and labour intensiveness are far greater for alloys (particularly certain types) than for granules. The impact of measures, therefore, will be less for alloy manufacturers, which represent the overwhelming majority of staff employed.

Both companies oppose protective measures, alleging that the share of the product concerned represents more than 50 %, in terms of raw materials employed, of their manufacturing costs. They point out that any increase in the price of magnesium would lead the steel industry to source the components for its desulphurising blends from suppliers located outside the Community (they would continue enjoying the possibility to source magnesium from the People's Republic of China at dumped prices), or encourage the Chinese industry to produce and export the granules themselves.

These allegations, however, have not been substantiated. It should also be noted that profitability figures (provided by only one of the cooperating companies) indicated levels suggesting that a large margin for the absorption of any duty-induced cost increases exists, and that their operations would not be seriously affected if measures were imposed.

(c) *Steel manufacturers*

- (55) Steel manufacturers purchase magnesium granules which are mostly used in mixtures for desulphurisation purposes. As a consequence of this, no figure was provided on the share of the product concerned in their own cost structures.

Steel producers oppose measures, claiming that any increase in the cost of the raw material used by their suppliers will eventually be passed on to

them. However, no evidence was produced in this regard. In view of the proportion of their total costs likely to be represented by magnesium granules, the Commission concludes that anti-dumping measures can be expected to have little impact.

5. Conclusion on Community interest

- (56) Any price increase resulting from anti-dumping measures has the potential to increase the costs of user industries. The existence of a wide range of different sources of supply of magnesium, however, means that competition will remain intense on the Community market: not taking anti-dumping measures could entail the disappearance of the sole Community producer, thus lessen the degree of competition and prices would be likely to rise.

On the basis of the above Community interest analysis, the Commission has provisionally concluded that there are no compelling reasons not to adopt measures.

G. PROVISIONAL DUTY

1. Injury elimination level

- (57) In order to prevent further injury being caused by the dumped imports, the Commission considers it necessary to adopt provisional anti-dumping measures.

For the purpose of determining the level and form of these measures, the Commission took account of the dumping margins found and of the amount of duty necessary to eliminate the injury sustained by the Community industry.

To that effect, the Commission considered that the prices of the dumped imports should be increased to a non-injurious level. The necessary price increase was determined on the basis of a comparison of the weighted average import price used to establish price undercutting, as outlined at recital 33, with the production costs of the sole Community producer and a profit margin of 5 %. This profit margin was considered necessary to ensure the viability of the industry.

The comparison (on a weighted average basis, and expressed as a percentage of cif level) shows an injury margin of 46,9 %. This margin is above the dumping margin established.

The provisional duty should therefore be set at the level of the dumping margin established, i.e. at 40,6 %.

2. Form of the duties

- (58) In order to be consistent with the measures adopted in the previous proceeding concerning the same product, and given the material injury suffered by the Community industry and the nature of the product, a variable duty is considered the most appropriate in this case. Thus, no extra burden is imposed on exporters which will increase export prices to or beyond the duty level.

In these circumstances, it is proposed that a variable duty based on a minimum price of ECU 2 797 per tonne, on a cif Community border level for imports of unwrought unalloyed magnesium originating in the People's Republic of China, should be adopted.

H. FINAL PROVISION

- (59) In the interest of sound administration, a period should be fixed within which the parties concerned may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings made for the purposes of this Regulation are provisional, and may have to be reconsidered for the purposes of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION:

Article 1

1. (a) A provisional anti-dumping duty is hereby imposed on imports of unwrought pure magnesium falling within CN codes 8104 11 00 and ex 8104 19 00 (TARIC code 8104 19 00*10) originating in the People's Republic of China.

For the purpose of this Regulation unwrought pure magnesium shall be defined as unwrought magnesium unintentionally containing small amounts of other elements as impurities.

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

Done at Brussels, 13 May 1998.

- (b) This Regulation shall not cover unwrought alloyed magnesium which is unwrought magnesium containing more than 3 % by weight of intentionally added alloying elements such as aluminium and zinc.

2. The amount of the anti-dumping duty shall be the difference between the minimum import price of ECU 2 797 per tonne and the cif Community frontier price in all cases where the cif Community frontier price per tonne is less than the minimum import price. No duty shall be collected where the cif Community frontier price per tonne is equal to, or higher than, the minimum import price.

3. The provisions in force concerning customs duties shall apply.

4. In instances where the customs value is reduced pursuant to Article 145 of Commission Regulation (EEC) No 2454/93⁽¹⁾, the minimum import price, referred to in paragraph 2 above, will also be reduced, on a pro-rata basis, so that the duty payable will be the amount by which the reduced minimum import price exceeds the reduced customs value.

5. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 20 of Regulation (EC) No 384/96, the parties concerned may make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

For the Commission

Leon BRITTAN

Vice-President

⁽¹⁾ OJ L 253, 11. 10. 1993, p. 1.

COMMISSION REGULATION (EC) No 1003/98
of 13 May 1998
fixing the export refunds on pigmeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94⁽²⁾, and in particular the second paragraph of Article 13 (3) thereof,

Whereas Article 13 of Regulation (EEC) No 2759/75 provides that the difference between prices on the world market for the products listed in Article 1 (1) of that Regulation and prices for these products within the Community may be covered by an export refund;

Whereas it follows from applying these rules and criteria to the present situation on the market in pigmeat that the refund should be fixed as set out below;

Whereas, in the case of products falling within CN code 0210 19 81, the refund should be limited to an amount which takes account of the qualitative characteristics of each of the products falling within these codes and of the foreseeable trend of production costs on the world market; whereas it is important that the Community should continue to take part in international trade in the case of certain typical Italian products falling within CN code 0210 19 81;

Whereas, because of the conditions of competition in certain third countries, which are traditionally importers of products falling within CN codes 1601 00 and 1602, the refund for these products should be fixed so as to take

this situation into account; whereas steps should be taken to ensure that the refund is granted only for the net weight of the edible substances, to the exclusion of the net weight of the bones possibly contained in the said preparations;

Whereas Article 13 of Regulation (EEC) No 2759/75 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 (1) of Regulation (EEC) No 2759/75 according to destination;

Whereas the refunds should be fixed taking account of the amendments to the refund nomenclature established by Commission Regulation (EEC) No 3846/87⁽³⁾, as last amended by Regulation (EC) No 707/98⁽⁴⁾;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Pigmeat,

HAS ADOPTED THIS REGULATION:

Article 1

The list of products on which the export refund specified in Article 15 of Regulation (EEC) No 2759/75 is granted and the amount of the refund shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 May 1998.

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

Done at Brussels, 13 May 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 282, 1. 11. 1975, p. 1.

⁽²⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ L 366, 24. 12. 1987, p. 1.

⁽⁴⁾ OJ L 98, 31. 3. 1998, p. 11.

ANNEX

to the Commission Regulation of 13 May 1998 fixing the export refunds on pigmeat

<i>(ECU/100 kg net weight)</i>			<i>(ECU/100 kg net weight)</i>		
Product code	Destination of refund (1)	Amount of refund	Product code	Destination of refund (1)	Amount of refund
0203 11 10 9000	01	20,00	0203 29 15 9100	01	13,00
0203 12 11 9100	01	20,00	0210 11 31 9110	01	90,00
0203 12 19 9100	01	20,00	0210 11 31 9910	01	90,00
0203 19 11 9100	01	20,00	0210 12 19 9100	01	20,00
0203 19 13 9100	01	20,00	0210 19 81 9100	01	95,00
0203 19 15 9100	01	13,00	0210 19 81 9300	01	76,00
0203 21 10 9000	01	20,00	1601 00 91 9000	01	28,00
0203 22 11 9100	01	20,00	1601 00 99 9110	01	25,00
0203 22 19 9100	01	20,00	1602 41 10 9210	01	62,00
0203 29 11 9100	01	20,00	1602 42 10 9210	01	34,00
0203 29 13 9100	01	20,00	1602 49 19 9120	01	25,00

(1) The destinations are as follows:

01 All third countries.

NB: The product codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87.

COMMISSION REGULATION (EC) No 1004/98
of 13 May 1998
fixing the import duties in the rice sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽¹⁾, as amended by Regulation (EC) No 192/98 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector ⁽³⁾, as last amended by Regulation (EC) No 1403/97 ⁽⁴⁾, and in particular Article 4 (1) thereof,

Whereas Article 11 of Regulation (EC) No 3072/95 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by a certain percentage according to whether it is husked or milled rice, minus the cif import price provided that duty does not exceed the rate of the Common Customs Tariff duties;

Whereas, pursuant to Article 12 (3) of Regulation (EC) No 3072/95, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market or on the Community import market for the product;

Whereas Regulation (EC) No 1503/96 lays down detailed rules for the application of Regulation (EC) No 3072/95 as regards import duties in the rice sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available from the source referred to in Article 5 of Regulation (EC) No 1503/96 during the two weeks preceding the next periodical fixing;

Whereas, in order to allow the import duty system to function normally, the market rates recorded during a reference period should be used for calculating the duties;

Whereas application of Regulation (EC) No 1503/96 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the rice sector referred to in Article 11 (1) and (2) of Regulation (EC) No 3072/95 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 14 May 1998.

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

Done at Brussels, 13 May 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ L 20, 27. 1. 1998, p. 16.

⁽³⁾ OJ L 189, 30. 7. 1996, p. 71.

⁽⁴⁾ OJ L 194, 23. 7. 1997, p. 2.

ANNEX I

Import duties on rice and broken rice

(ECU/tonne)

CN code	Duties ⁽¹⁾			
	Third countries (except ACP and Bangladesh) ⁽²⁾ ⁽⁷⁾	ACP Bangladesh ⁽¹⁾ ⁽²⁾ ⁽³⁾ ⁽⁴⁾	Basmati India and Pakistan ⁽⁵⁾	Egypt ⁽⁶⁾
1006 10 21	(7)	130,91		202,88
1006 10 23	(7)	130,91		202,88
1006 10 25	(7)	130,91		202,88
1006 10 27	(7)	130,91		202,88
1006 10 92	(7)	130,91		202,88
1006 10 94	(7)	130,91		202,88
1006 10 96	(7)	130,91		202,88
1006 10 98	(7)	130,91		202,88
1006 20 11	332,41	161,87		249,31
1006 20 13	332,41	161,87		249,31
1006 20 15	332,41	161,87		249,31
1006 20 17	268,27	129,80	18,27	201,20
1006 20 92	332,41	161,87		249,31
1006 20 94	332,41	161,87		249,31
1006 20 96	332,41	161,87		249,31
1006 20 98	268,27	129,80	18,27	201,20
1006 30 21	(7)	251,59		399,75
1006 30 23	(7)	251,59		399,75
1006 30 25	(7)	251,59		399,75
1006 30 27	(7)	251,59		399,75
1006 30 42	(7)	251,59		399,75
1006 30 44	(7)	251,59		399,75
1006 30 46	(7)	251,59		399,75
1006 30 48	(7)	251,59		399,75
1006 30 61	(7)	251,59		399,75
1006 30 63	(7)	251,59		399,75
1006 30 65	(7)	251,59		399,75
1006 30 67	(7)	251,59		399,75
1006 30 92	(7)	251,59		399,75
1006 30 94	(7)	251,59		399,75
1006 30 96	(7)	251,59		399,75
1006 30 98	(7)	251,59		399,75
1006 40 00	(7)	78,38		123,00

⁽¹⁾ Subject to the application of the provisions of Articles 12 and 13 of amended Council Regulation (EEC) No 715/90 (OJ L 84, 30.3.1990, p. 85).

⁽²⁾ In accordance with Regulation (EEC) No 715/90, the duties are not applied to products originating in the African, Caribbean and Pacific States and imported directly into the overseas department of Réunion.

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

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

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

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

⁽⁷⁾ Duties fixed in the Common Customs Tariff.

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

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (ECU/tonne)	(¹)	268,27	533,00	332,41	533,00	(¹)
2. Elements of calculation:						
(a) Arag cif price (ECU/tonne)	—	339,14	336,06	302,00	347,08	—
(b) fob price (ECU/tonne)	—	—	—	274,96	320,04	—
(c) Sea freight (ECU/tonne)	—	—	—	27,04	27,04	—
(d) Source	—	USDA	Operators	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 24 April 1998

on the 1998 work programme relating to the protein content of the main milk products

(Text with EEA relevance)

(98/325/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Article 1

The appended 1998 work programme on the protein content of the main milk products is approved.

Having regard to Council Directive 96/16/EC of 19 March 1996 on statistical surveys of milk and milk products ⁽¹⁾, and in particular, Article 4(2) thereof,

Article 2

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

Whereas work already initiated by the Member States should be continued in order to work towards the objective of extending the annual statistical information to include the protein content of the main milk products;

Article 3

This Decision is addressed to the Member States.

Whereas the 1998 work programme takes account of the experience gained in the 1997 work programme and proposes to elaborate further the various methods of measuring the protein content of the main milk products;

Done at Brussels, 24 April 1998.

Whereas the measures envisaged by this Decision are in accordance with the opinion of the Standing Committee on Agricultural Statistics,

For the Commission

Yves-Thibault DE SILGUY

Member of the Commission

⁽¹⁾ OJ L 78, 28. 3. 1996, p. 27.

*ANNEX***WORK PROGRAMME FOR 1998**

The Member States will transmit to Eurostat by the 30 June 1998 at the latest:

1. The information relative to the table at annex concerning the protein content of the main milk products for the latest available year, to be indicated, whereby in addition to column 1, either column 2 or column 3, must be completed. If only one of the columns, either 2 or 3, is completed, Member States will explain precisely why this is so.
2. The description of the methods used to obtain the information for this table (direct survey, coefficients, estimations, technical references, administrative sources, information from professional organisations, other sources).
3. Other elements which were missing from the 1997 work programme which have not yet been transmitted. The Member States will assure the transmission of these other elements in close collaboration with Eurostat.
4. Their proposals for the 1999 work programme.

ACTIVITIES OF THE DAIRIES

(Protein content of cows' milk in the main milk products)

Country		Year		
Code	Product	Produced quantity ⁽¹⁾ (1 000 T)	Entry ⁽²⁾	Contents ⁽³⁾
		1	2	3
1	Fresh products			
11	Drinking milk			
112	Whole milk			
113	Semi-skimmed milk			
114	Skimmed milk			
12	Buttermilk			
13	Cream			
2	Manufactured products			
21	Concentrated milk			
221	Cream milk powder			
222	Whole milk powder			
223	Partly skimmed-milk powder			
224	Skimmed-milk powder			
225	Buttermilk powder			
2411	Cheese from cows' milk			

⁽¹⁾ Column 1: quantities produced in 1 000 tonnes during the period under consideration (year). Definition: see Annex II to Decision 97/80/EC table B / column 1.

⁽²⁾ Column 2: quantities in tonnes of the protein content of cows' milk used for the manufacture of the given product including possible losses during the manufacturing process.

⁽³⁾ Column 3: quantities in tonnes of the protein content of cows' milk contained in the product.

NOTICE TO READERS

Legal acts whose publication is not obligatory are not given an official number forming an integral part of their title but, if published in the Official Journal, are allocated a publication number by the Office for Official Publications.

Since such acts are often notified or transmitted to the addressees bearing the number of the procedure under which they were adopted (number C(1998) . . .), it has been decided to establish a link between the publication numbers.

Accordingly, from 1 June the procedure numbers will be inserted after the title of the relevant acts of the Commission.