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Legislation

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EN

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 203/97

of 31 January 1997

correcting Regulation (EC) No 2515/96 determining the amounts of the agricultural components and the additional duties applicable from 1 September 1996 to 30 June 1997 on the importation into the Community of goods covered by Council Regulation (EC) No 3448/93 from Norway

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products⁽¹⁾, and in particular Article 7 thereof,

Whereas Commission Regulation (EC) No 2515/96⁽²⁾ determined the agricultural components referred to in the Annex to the Agreement in the form of an Exchange of Letters concerning the amendment of Protocol 2 of the Agreement between the European Economic Community and the Kingdom of Norway⁽³⁾;

Whereas the Agreement between the European Economic Community and the Kingdom of Norway provides for the application of a maximum agricultural component of ECU 25 per 100 kg for CN code 2106 90 10;

Whereas the Annex to Commission Regulation (EC) No 2515/96 determined the amounts of agricultural components; whereas a verification has shown that certain

amounts had been determined wrongly; whereas, therefore, it is necessary to correct the annex to the Regulation in question and to add the amounts referred to in the annex relating to certain sorbitols which had not been taken into account,

HAS ADOPTED THIS REGULATION:

Article 1

The goods referred to in Annex I, Parts I and II of this Regulation, replace those in Annex I, Part 1, and Annex II, Part 1 of Regulation (EC) No 2515/96.

The goods falling under sub-heading 3824 60 referred to in this Regulation shall be added to Annex I, Part 1, of Regulation (EC) No 2515/96.

Article 2

This Regulation shall enter into force on the day of 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, 31 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 318, 20. 12. 1993, p. 18.

⁽²⁾ OJ No L 345, 31. 12. 1996, p. 46.

⁽³⁾ OJ No L 345, 31. 12. 1996, p. 78.

*ANNEX I***Part I**

CN code	ECU/100 kg
'1904 10 30	63,214
1904 20 95	63,214
1904 90 10	63,214
2106 90 10	25,000'

Part II

CN code	AD S/Z
	ECU/100 kg
'2105 00 91	9,300
2105 00 99	9,300'

ANNEX II

CN code	ECU/100 kg
'3824 60 19	41,870
3824 60 91	19,152
3824 60 99	59,548'

COMMISSION REGULATION (EC) No 204/97

of 3 February 1997

amending Regulation (EC) No 441/96 laying down certain detailed rules for the application of a tariff quota for potato starch imported from the Republic of Poland

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations⁽¹⁾, as last amended by Council Regulation (EC) No 2490/96⁽²⁾, and in particular Article 8 thereof,

Whereas Regulation (EC) No 2490/96 prolongs the application of Regulation (EC) No 3066/95 to 31 December 1997; whereas, as a result, Regulation (EC) No 441/96 of 11 March 1996 laying down certain detailed rules for the application of a tariff quota for potato starch imported from the Republic of Poland and repealing Regulation (EEC) No 1995/92⁽³⁾, as amended by Regulation (EC) No 1314/96⁽⁴⁾, should be adapted;

Whereas the measures provided for in this regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 441/96 is hereby amended as follows:

1. Article 1 is replaced by the following:

Article 1

Under the arrangements provided for in Article 3 of Regulation (EC) No 3066/95, 7 500 tonnes of products falling within CN code 1108 13 00 and originating in Poland may be imported into the Community during the period 1 January to 31 December 1997 in accordance with this Regulation. The rate of customs

duty applicable to such imports shall be 20 % of the duty applicable to the most favoured nation.'

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

'(c) in box 24, one of the following:

- Derecho de aduana en el Arancel Aduanero Común reducido en un 80 % en aplicación del Reglamento (CE) n° 3066/95
- Told nedsat med 80 %, jf. forordning (EF) nr. 3066/95
- Zollermäßigung um 80 % gemäß der Verordnung (EG) Nr. 3066/95
- Καθοριζόμενη στο κοινό δασμολόγιο εισφορά μειωμένη κατά 80 % κατ' εφαρμογή του κανονισμού (ΕΚ) αριθ. 3066/95
- Customs duty fixed by the Common Customs Tariff reduced by 80 % pursuant to Regulation (EC) No 3066/95
- Droit de douane fixé au tarif douanier commun réduit de 80 % en application du règlement (CE) n° 3066/95
- Riduzione del dazio dell'80 % a norma del regolamento (CE) n. 3066/95
- Het in het gemeenschappelijk douanetarief vastgestelde douanerecht is verlaagd met 80 % overeenkomstig Verordening (EG) nr. 3066/95
- Redução de 80 % do direito aduaneiro fixado na Pauta Aduaneira Comum em aplicação do Regulamento (CE) n° 3066/95
- Yhteisessä tullitariffissa vahvistetun tullin alentaminen 80 prosentilla asetuksen (EY) N:o 3066/95 mukaan
- Nedsatt tull med 80 % enligt Gemensamma tulltaxan med tillämpning av förordning (EG) nr 3066/95.'

3. The Annex is replaced by the Annex to this Regulation.

Article 2

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

It shall apply from 1 January to 31 December 1997.

⁽¹⁾ OJ No L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ No L 338, 28. 12. 1996, p. 13.

⁽³⁾ OJ No L 61, 12. 3. 1996, p. 4.

⁽⁴⁾ OJ No L 170, 9. 7. 1996, p. 18.

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

Done at Brussels, 3 February 1997.

For the Commission
Franz FISCHLER
Member of the Commission

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ANNEX

ANNEX

(tonnes)

CN code	Description	From 1 January to 31 December 1997
1108 13 00	Potato starch	7 500'

COMMISSION REGULATION (EC) No 205/97

of 3 February 1997

correcting the coefficient for converting from quality R3 into quality S2 laid down in Regulations (EC) No 1931/96 and 2368/96 in the beef and veal sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 2222/96 ⁽²⁾, and in particular Article 6 (7) and 22a (3) thereof,Whereas, as a result of a material error, the coefficient for converting from quality R3 into quality S2 was set at too low a level in Commission Regulation (EC) No 1931/96 ⁽³⁾, as amended by Regulation (EC) No 2015/96 ⁽⁴⁾, and Commission Regulation 2368/96 ⁽⁵⁾, as amended by Regulation (EC) No 34/97 ⁽⁶⁾; whereas this situation should be rectified by increasing that coefficient retroactively;

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

HAS ADOPTED THIS REGULATION:

Article 1

The coefficient of 1,356, laid down in the second subparagraph of Article 1 (1) (c) of Regulation (EC) No 1931/96 and the second subparagraph of Article 1 (1) (b) of Regulation (EC) No 2368/96, is hereby increased to 1,365.

*Article 2*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply to invitations to tender opened during the months October 1996 to March 1997.

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

Done at Brussels, 3 February 1997.

For the Commission

Franz FISCHLER

Member of the Commission⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.⁽²⁾ OJ No L 296, 21. 11. 1996, p. 50.⁽³⁾ OJ No L 254, 8. 10. 1996, p. 35.⁽⁴⁾ OJ No L 269, 22. 10. 1996, p. 16.⁽⁵⁾ OJ No L 323, 13. 12. 1996, p. 6.⁽⁶⁾ OJ No L 8, 11. 1. 1997, p. 1.

COMMISSION REGULATION (EC) No 206/97

of 3 February 1997

amending Regulation (EC) No 3163/93 establishing the forecast supply balance as part of the specific arrangements for the supply of milk products to the smaller Aegean islands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2019/93 of 19 July 1993 introducing specific measures for the smaller Aegean islands concerning certain agricultural products⁽¹⁾, as last amended by Commission Regulation (EC) No 2417/95⁽²⁾, and in particular Article 4 thereof,

Whereas, with a view to applying the provisions of Articles 2 and 3 of Regulation (EEC) No 2019/93 in the milk products sector, Commission Regulation (EC) No 3004/94⁽³⁾ establishes the annual forecast supply balance for milk products for the islands concerned for 1995; whereas, on the basis of information supplied concerning the islands' requirements, the forecast supply balance for 1997 should be established;

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

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

Done at Brussels, 3 February 1997.

For the Commission

Franz FISCHLER

Member of the Commission

Article 1

Article 1 (1) of Commission Regulation (EC) No 3163/93⁽⁴⁾ is hereby replaced by the following:

'1. With a view to the application of Articles 2 and 3 of Regulation (EEC) No 2019/93, the quantities of milk products in the forecast supply balance for the smaller Aegean islands that are eligible for Community aid are as follows for 1997:

<i>(tonnes)</i>			
CN code	Product	List of islands	Quantities — 1997
ex 0403 10	Yoghurt	Group A	300
		Group B	600'

Article 2

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

It shall apply from 1 January 1997.

⁽¹⁾ OJ No L 184, 27. 7. 1993, p. 1.

⁽²⁾ OJ No L 248, 14. 10. 1995, p. 39.

⁽³⁾ OJ No L 317, 10. 12. 1994, p. 6.

⁽⁴⁾ OJ No L 283, 18. 11. 1993, p. 18.

COMMISSION REGULATION (EC) No 207/97

of 3 February 1997

determining the extent to which applications lodged in January 1997 for import licences for certain poultrymeat products under the regime provided for in Council Regulation (EC) No 774/94 opening and providing for the administration of certain Community tariff quotas for poultrymeat and certain other agricultural products can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1431/94 of 22 June 1994, laying down detailed rules for the application in the poultrymeat sector of the import arrangements provided for in Council Regulation (EC) No 774/94 opening and providing for the administration of certain Community tariff quotas for poultrymeat and certain other agricultural products⁽¹⁾, as last amended by Regulation (EC) No 958/96⁽²⁾, and in particular Article 4 (5) thereof,

Whereas the applications for import licences lodged for the period 1 January to 31 March 1997 are greater than

the quantities available and must therefore be reduced by a fixed percentage to ensure a fair distribution,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for import licences for the period 1 January to 31 March 1997 submitted under Regulation (EC) No 1431/94 shall be met as referred to in the Annex.

Article 2

This Regulation shall enter into force on 4 February 1997.

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

Done at Brussels, 3 February 1997.

For the Commission

Franz FISCHLER

Member of the Commission⁽¹⁾ OJ No L 156, 23. 6. 1994, p. 9.⁽²⁾ OJ No L 130, 31. 5. 1996, p. 6.

ANNEX

Group No	Percentage of acceptance of import licences submitted for the period 1 January to 31 March 1997
1	3,19
2	3,21
3	3,35
4	100,00
5	3,69

COMMISSION REGULATION (EC) No 208/97
of 3 February 1997
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 4 February 1997.

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

Done at Brussels, 3 February 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 3 February 1997 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 15	204	45,8
	212	114,3
	624	251,4
	999	137,2
0707 00 10	053	186,8
	068	81,2
	999	134,0
0709 10 10	220	167,0
	999	167,0
0709 90 73	052	119,1
	204	118,8
	628	130,2
	999	122,7
0805 10 01, 0805 10 05, 0805 10 09	052	36,2
	204	39,5
	212	44,4
	220	32,8
	448	38,5
	600	59,0
	624	56,9
	999	43,9
805 20 11	204	70,4
	999	70,4
0805 20 13, 0805 20 15, 0805 20 17, 0805 20 19	052	66,0
	204	92,9
	400	95,8
	464	117,0
	624	78,4
	662	56,8
	999	84,5
	999	84,5
0805 30 20	052	74,7
	528	64,8
	600	77,5
	999	72,3
0808 10 51, 0808 10 53, 0808 10 59	052	62,3
	060	58,4
	064	45,3
	068	36,3
	400	85,9
	404	98,7
	720	47,8
	728	104,6
	999	67,4
	999	67,4
0808 20 31	052	136,2
	064	51,7
	400	114,9
	624	74,5
	999	94,3

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ No L 14, 19. 1. 1996, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 209/97

of 3 February 1997

imposing a provisional anti-dumping duty on imports of certain handbags 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 amended by Regulation (EC) No 2331/96⁽²⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

- (1) On 4 May 1996, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of an anti-dumping proceeding with regard to imports into the Community of certain handbags originating in the People's Republic of China and commenced an investigation.
- (2) The proceeding was initiated as a result of a complaint lodged in March 1996 by the European Committee for Leather Goods Industries — Comité Européen des Industries de la Maroquinerie (Cedim), whose collective output was alleged to represent a major proportion of Community production of handbags. The complaint contained sufficient evidence of dumping by the imports concerned and of material injury resulting therefrom to justify the initiation of an anti-dumping proceeding.

2. Investigation

- (3) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting country and the complainant Community producers about the initiation of the proceeding. Interested parties were

given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

- (4) A number of producers in the country concerned as well as of Community importers and producers made their views known in writing. All parties who so requested within the above time limit were granted a hearing.
- (5) In view of the large number of Community producers manufacturing the product concerned in the Community and supporting the complaint, and in conformity with Article 17 (1) of Council Regulation (EC) No 384/96 (hereinafter referred to as 'the basic Regulation'), it was considered appropriate to limit the investigation to a sample of producers which could reasonably be investigated within the time available. Four Member States — France, Italy, Spain and Portugal — whose production represented a large majority of Community production of handbags were selected. In each of these Member States three producers were selected according to their size, constituting a representative spread of production and employment. The sampled companies were selected from a list of manufacturers of the product concerned, whose turnover was considered representative for that country, submitted by the respective National Associations. The Community producers thus sampled were sent questionnaires.
- (6) Parties concerned who, following the notice of initiation, had expressed their wish to be consulted by the Commission on the final selection of the sample, were thus given disclosure of the sampled companies and of the methodology used for their selection.
- (7) After this disclosure, the Commission received notice of actual threats of commercial retaliation against some of the sampled Community producers by some of their customers, who are also importers and major retailers in the Community. Certain sampled Community producers were subjected to severe commercial pressure at an advanced stage of the investigation in an effort to persuade them to withdraw their support for the complaint. It was therefore considered appropriate not to make any further disclosure of the names of these companies.

⁽¹⁾ OJ No L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ No L 317, 6. 12. 1996, p. 1.

⁽³⁾ OJ No C 132, 4. 5. 1996, p. 4.

- (8) The large number of unrelated importers that made themselves known could not reasonably be investigated within the time available. Therefore, the Commission decided to resort to a sample of unrelated importers. Interested unrelated importers were invited to provide import figures by category of product, for 1995, on the basis of which the Commission sampled 18 unrelated imports located in the following four Member States, deemed most representative in terms of volume of imports: Germany, the United Kingdom, the Netherlands and France. Questionnaires were sent to these sampled unrelated importers.
- (9) Interested parties were invited to comment on the sampling and the companies selected were disclosed to these parties. No substantive comments were received from interested parties on this approach.
- (10) The following unrelated importers were selected for the sample:
- Germany:*
- Picard (Obertshausen)
 Karstadt (Essen)
 Kaufhof Holding (Cologne)
 Fabra (Merxheim)
 Sieber (Bad Reichenhall)
 Schneider (Wedel)
- United Kingdom:*
- Littlestone & Goodwin (Desborough)
 British Shoe (Leicester)
 Peter Black Footwear (West Yorkshire)
 The Tula Group (London)
 Jane Shilton (London)
 Mister Minit (Sheffield)
- France:*
- Gravilux (Paris)
 Dané & Galiay (Paris)
 Magnesium (Asnières)
- The Netherlands:*
- Arwa (Hilversum)
 Parsons (Rotterdam)
 The Bagsac Company (Amsterdam).
- (11) The Commission also sent questionnaires to the exporters listed in the complaint. Questionnaires were also sent to the national authorities of the People's Republic of China (with a view to allowing any other producer/exporter in that country to co-operate) and to those exporters who, while not listed in the complaint, made themselves known and requested a questionnaire within the time limit set in the notice of initiation.
- (12) The Commission received detailed replies from 11 of the sampled Community producers, from two producers and one trader in the People's Republic of China, from two Hong Kong exporters as well as from importers in the Community related to the producers in the exporting country concerned and from 15 unrelated importers in the Community. The reply from one producer in the People's Republic of China was, after several extensions had been granted, finally rejected as it was largely deficient. One exporter withdrew its co-operation and another exporter ceased co-operation after noting that it did not export the product concerned to the Community.
- (13) The Commission sought and verified all the information it considered necessary for a preliminary determination of dumping and injury and carried out verification visits at the premises of the following companies:
- (a) *Community producers*
- Eleven Community producers in four Member States (France, Italy, Spain and Portugal) were visited and their information was verified.
- (b) *Exporters/producers*
- Jane Shilton (Pacific) Ltd
 — Lee & Man Handbags Manufacturing Ltd
- (c) *Importers related to producers/exporters*
- Shilton PLC (UK)
- (d) *Unrelated importers*
- Fabra
 — Picard
 — Peter Black
 — Jane Shilton (for imports of handbags from unrelated suppliers)
 — The Tula Group
- (14) The period of investigation for the determination of dumping was 1 April 1995 to 31 March 1996 (hereinafter referred to as 'the investigation period'). The examination of injury covers the period 1992 to the end of the investigation period.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

- (15) The product concerned by this proceeding is handbags, whether or not with a shoulder strap, including those without a handle, with outer surface of leather, of composition leather or patent leather or with outer surface of plastic sheeting or with an outer surface of textile material, falling within CN Codes 4202 21 00 (leather), 4202 22 10 (plastic) and 4202 22 90 (textile).
- (16) Although the handbags falling within any of the above CN codes can cover a wide range of styles, types and raw materials used, the essential characteristics and uses of the above mentioned three categories remain basically the same.
- (17) The product in question can be divided into three categories:
- handbags made of leather, composition leather and/or patent leather,
 - handbags made of plastic,
 - handbags made of textile.

As handbags within the three categories possess the same characteristics and are intended for the same use, they are regarded as being like products.

2. Like product

- (18) The Commission found that the types of imported handbags sold by the cooperating producers in the People's Republic of China were similar or comparable as far as overall quality, finish and characteristics were concerned.
- (19) Some interested parties have claimed that handbags manufactured in the Community are not comparable to imported handbags from the People's Republic of China. In particular, it has been alleged that there are differences in quality, design and finish.
- (20) It should be recalled that it is the standard practice of the Commission that quality differences between the product manufactured in the Community and that manufactured in the third country under investigation does not prevent the imported product from being considered a like product to the extent that the basic physical characteristics and the intended use of the product are not affected by these differences. Nevertheless, quality differences — when substantiated — may qualify for an adjustment in price comparison. The

Commission initially proposed in the questionnaires a possible segmentation of the handbag market on the basis of different sizes within the three basic categories (leather, plastic and textile). The Commission found however in the course of the investigation that this proposal was impractical, as companies did not keep management or accounting records based on sizes of handbags, and also established that no consistent relationship existed between sizes and prices of handbags. In this respect, it should be noted that none of the interested parties advanced objective criteria generally accepted in the industry by which handbags within the three categories mentioned could be grouped in distinct subcategories or segments. Consequently, all handbags were considered as forming one like product. The Commission based its conclusions concerning the possible segmentation of the handbag market, as far as handbags imported from the People's Republic of China were concerned, on the product information submitted by the co-operating exporters although the latter only accounted for a very small part of overall exports from the People's Republic of China.

- (21) Furthermore, three sampled Community producers presented substantiated evidence of handbags manufactured in the People's Republic of China being exact copies of models manufactured by these Community producers and they demonstrated that there were no substantial differences in quality.
- (22) Accordingly, the Commission concluded that handbags exported from the People's Republic of China are like products to the handbags produced in the Community by Community manufacturers, within the meaning of Article 1 (4) of the basic regulation. The findings made by the Commission in this respect also apply to handbags investigated in Indonesia for the purpose of establishing normal value (see recitals (23) to (28)), which are therefore like products to the handbags being exported from the People's Republic of China and to the handbags manufactured by the Community producers.

C. DUMPING

1. Normal value

- (23) Since the People's Republic of China is considered to be a non-market economy country, the Commission determined the normal value on the basis of data obtained from producers in a market economy third country (the 'analogue country'), in accordance with Article 2 (7) of the basic regulation.

- (24) As was stated in the notice of initiation, Taiwan or India was initially envisaged as an appropriate market economy third country for the purpose of establishing normal value in this proceeding. The complainant suggested the selection of Taiwan as analogue country.
- (25) All interested parties were given the opportunity to comment on the choice envisaged. After receipt of comments and of more general information, the Commission considered the choice of Taiwan not to be appropriate on several grounds, *inter alia* because it was found that numerous inter-relationships exist between exporters/producers in the People's Republic of China and producers in Taiwan. The Commission also noted that Taiwan was objected to by several interested parties for a variety of reasons. The Commission could in any event not obtain sufficient co-operation from companies either in Taiwan or in India and, therefore, it had to consider the selection of another analogue country.
- (26) The Commission expended considerable efforts in contacting individual companies and industry federations in several — *prima facie* suitable — market economy third countries, in order to secure co-operation from producers in such countries.
- (27) Eventually, two large handbag producers in Indonesia were willing to cooperate. These companies produced handbags exclusively for export (to the Community as well as to other major export markets). The Commission also sought to obtain co-operation from Indonesian producers selling products on the domestic market but such producers proved not prepared to co-operate.
- (28) The choice of Indonesia as an analogue country was considered appropriate in view of the following factors:
- the existence in Indonesia of production of handbags made of leather, plastic and textile materials with similar characteristics to those produced in the People's Republic of China by exporters/producers having co-operated in the proceeding,
 - the similarity of the production processes in Indonesia and in the People's Republic of China, assessed on the basis of facts established with respect to exporters/producers which co-operated in the proceeding. The production processes in both countries appear to be equally labour-intensive with limited automation,
 - both the co-operating Chinese producers and the Indonesian producers examined for purposes of establishing normal value procured the majority of their raw materials on the international market under inward processing arrangements, so that no significant differences existed as regards access to raw materials,
 - production volumes of the two Indonesian producers concerned were considered sufficiently significant to calculate a reasonable cost of production, whereas their production volumes are comparable to those of the co-operating Chinese exporters/producers.
- (29) The choice of Indonesia was communicated to the interested parties. Several parties, including importers, expressed their explicit agreement with the selection of Indonesia as analogue country. One exporter objected to the choice of Indonesia as analogue country because of the alleged existence of a customs duty ranging between 30 % and 40 % levied in Indonesia on imported raw materials used for the production of handbags and because the export volume of handbags from Indonesia to the Community would be allegedly too small in comparison with the export volume from the People's Republic of China to the Community. Both arguments were rejected because, as mentioned above, no differences were found to exist between producers in Indonesia and the People's Republic of China in terms of access to raw materials under inward processing arrangements and because the volumes of handbags produced by the two co-operating Indonesian producers was clearly sufficiently significant to permit the cost of production to be calculated (see recital (28)).
- (30) The People's Republic of China being considered a non-market economy country and Indonesia having been selected as an appropriate market economy third country, normal value for the Chinese exports had to be established in accordance with Article 2 (7) of the Basic Regulation. As the co-operating Indonesian producers were exclusively export-oriented and as prices for handbags on export markets could be affected by low-priced Chinese products, it was not considered appropriate to base normal value on prices on the domestic market of Indonesia or on Indonesian export prices to other countries. The Commission thus considered that the most reasonable basis for normal value would be the cost of production of the Indonesian producers to which a reasonable amount was added for selling, general and administrative costs and for profits. Separate normal values were consequently calculated for the three categories of handbags.
- ## 2. Export price
- (31) In view of the low level of co-operation of Chinese exporters in this proceeding (1,28 % of all exports from the People's Republic of China), the export prices of the co-operating exporters could not be considered representative of the prices charged by exporters which did not co-operate.

(32) Export prices of the non-co-operating Chinese exporters had therefore to be established on the basis of the facts available in accordance with Article 18 of the Basic Regulation. In this respect, it was considered appropriate to resort to the cif import prices of the unrelated importers sampled for purposes of injury determination. This seemed appropriate since the importers selected were considered to be representative of all exports from the People's Republic of China and these prices were, at least in part, verified by the Commission. These cif prices were converted into fob Chinese prices based on average intermediary cost figures reported by the co-operating exporters and importers.

(33) One of the co-operating companies made all its exports directly to independent customers in the Community. Consequently, export prices in respect of this company were based on the reported and verified selling prices of those exports to the EC, according to Article 2 (8) of the Basic Regulation.

(34) The other co-operating exporter made its exports to the EC via two separate channels: sales to one Member State were made via a related company, while sales to the remainder of the EC market were made directly to independent customers. With respect to the former, export prices were constructed on the basis of Article 2 (9) of the basic regulation by deducting from the prices charged by the related importer to its first independent customers that company's selling, general and administrative costs and a profit margin based on the average profit of unrelated importers. With respect to the latter channel, export prices were based on actual sales prices of these exports. The export prices of both channels were then aggregated as a weighted average price.

3. Comparison

(35) The weighted average normal value fob Indonesia was compared with the weighted average export price fob China with respect to the three categories of handbags concerned.

4. Dumping margins

(36) Two co-operating producers/exporters — both privately owned companies based in Hong Kong — requested individual treatment: i.e. the establishment of separate export prices and thus of individual dumping margins.

(37) The Commission verified whether these two companies enjoyed a degree of legal and factual independence from the influence of the State, comparable to that which would prevail in a market economy country, to which end it addressed detailed questions to these companies

regarding their ownership, management, control and determination of commercial and business policies.

(38) It was found that the situation with respect to the factories of the two exporters concerned was very similar. No legal entity existed in the People's Republic of China and the capital goods physically present there were included as assets in the accounts of the Hong Kong companies. The factory building was leased from the local authorities and the factory workers were employed and paid by the Hong Kong companies.

(39) The Commission carried out on-the-spot verifications at the premises of both companies in Hong Kong in order to examine the circumstances under which each company operated and its relations with the Chinese state. The companies concerned were able to show, to the satisfaction of the Commission, that the management and control of the factories, both in terms of production and marketing, was clearly in their hands and that their operations were sufficiently independent from the Chinese Authorities. It appeared, in particular, that the export prices to the Community and the marketing policies were determined by the Hong Kong companies without any interference from the Chinese state.

(40) In view of the above, it is considered possible to grant individual treatment to both exporters and, consequently, to calculate a separate dumping margin with respect to each of these companies, as an exception to the principle of calculating country-wide dumping margins in respect of non-market economy countries (Article 9 (5) of the Basic Regulation).

(41) The provisional dumping margins established for the companies granted individual treatment are as follows:

— Shilton: nil

— Lee & Man: 68,1 %.

(42) The weighted average dumping margin for the exporters not granted individual treatment has been provisionally established at 129,1 % of the cif export price Community frontier duty unpaid.

D. COMMUNITY INDUSTRY

(43) Subsequent to the initiation of the proceeding, the British Association (BLLA) decided to withdraw its support for the complaint. The Austrian, German and Dutch Associations, which initially remained neutral, also decided to oppose the complaint after the initiation of the proceeding. Finally, a limited number of Community producers also individually expressed their opposition to the opening of the proceeding.

- (44) The Commission noted this opposition but established that it did not affect the representative character of the complainant, as determined prior to the initiation of the proceeding, nor of the sample.
- (45) It is worth noting that a number of Community manufacturers of the product concerned, whose association does not support the complaint, have individually expressed their support for the complaint.
- (46) During the course of the investigation carried out with respect to the sampled Community producers, it became apparent that two of these producers were also importing the dumped product from the country concerned. In these circumstances the Commission examined whether in the light of Article 4 (1) (a) of the basic regulation, these companies should be excluded from the 'Community industry'.

For this purpose it appeared appropriate to determine whether those companies were primarily producers with an additional activity based on imports and merely supplementing their Community production, in order to be able to offer a complete range of products, or whether they were importers with relatively limited production in the Community.

In this respect, the investigation showed that the imports of these dumped products accounted for less than 10 % of the turnover of the companies in question. It is therefore the opinion of the Commission that the core of the business for these companies was production of handbags in the Community, that they were not shielded from the effects of dumped imports and that therefore, for the purposes of Articles 4 and 5 of the Basic Regulation, these companies may be considered along with the other co-operating producers, as forming the 'Community industry'.

E. INJURY

1. Collection of injury data: methodology and sources

- (47) The injury suffered by the Community industry has been assessed both at the level of the total Community as well as at the level of the sampled companies, as follows:
- at Community level, from data such as production, consumption in the Community, sales volume and employment,
 - by the questionnaire responses submitted by the sampled Community producers for trends concerning prices and cost related data, including profitability.

Verification of the Community-wide data (consumption, production, sales volume and

employment in the Community) has been carried out by reference to information submitted by the statistical offices of the Member States, research studies of the sector available for several countries as well as different submissions presented by interested parties, some of which were verified during on-the-spot visits.

2. Consumption in the Community market

- (48) Between 1992 and the investigation period, the consumption of handbags in the European Community increased from 121 million units to around 148 million units, i.e. an increase of approximately 22,5 %.

3. Volume and market share of imports

- (49) Between 1992 and the investigation period, imports of handbags originating in the People's Republic of China increased from 62 million units to 89 million units, i.e. by 43 %. When measured in value, the increase amounts to 25 %, i.e. from ECU 199 million in 1992 to ECU 249 million in the investigation period.
- (50) The share of the Community market taken by imports of handbags originating in the People's Republic of China increased from 51 % in 1992 to 60 % in the investigation period, i.e. by 17 %.

4. Prices of dumped imports and undercutting

- (51) Prices of imported handbags have been examined separately per category of product. Due to the non-co-operation of Chinese exporters, official statistical data has been used for the analysis of the price evolution. Thus, the average cif import prices of handbags have evolved as follows: the price for leather handbags has decreased from ECU 5,29 per unit in 1992 to ECU 4,81 per unit in the investigation period, i.e. by 9 %; the price of plastic handbags has decreased from ECU 3,1 per unit in 1992 to ECU 2,7 per unit in the investigation period, i.e. by 14,1 %; concerning textile handbags, the price thereof has decreased from ECU 2,5 per unit in 1992 to ECU 2,3 per unit in the investigation period, i.e. a decrease of 7 %.
- (52) For the examination of price undercutting, comparisons were first made on a category by category basis between the cif import price, adjusted to duty paid, customer delivered level, and the selling prices in the Community of the Community producers at the same level of trade. Import prices used correspond to those supplied by the sampled unrelated importers. These prices were duly adjusted to customer delivered level, in order to ensure a comparison at the same level of trade, applying a mark up derived from verified evidence submitted by co-operating importers. In adjusting import prices to duty paid, account was taken of the normal duty rate or the duty rate applicable under the GSP (as appropriate).

- (53) The resulting adjusted import prices were compared to the prices of those Community producers whose production comprised the most basic types sold within each category, considered comparable to the imports from the People's Republic of China, on a category per category and sales channel basis. This approach was taken despite the lack of co-operation from Chinese exporters.
- (54) On a category by category basis, when expressed as a percentage of the Community producers' selling prices, this comparison shows undercutting amounting to 30 %, for handbags with an outer surface of leather, 26 % for handbags with an outer surface of plastic and 35 % for handbags with an outer surface of textile. The average undercutting margin is 28 %.

5. Situation of the Community industry

(a) Production

- (55) Production of handbags by the Community industry increased from 33,5 million units in 1992 to 40 million units in the investigation period. When measured in value, production increased from ECU 973 million in 1992 to ECU 1 243 million in the investigation period.

(b) Sales volume

- (56) A decline in sales volume in the Community of output manufactured by the Community industry of 12 % between 1992 and the investigation period has been ascertained. Indeed, sales decreased from 25 million units in 1992 to 22 million units in the investigation period.

(c) Market share

- (57) The share of the Community market occupied by the Community industry when measured in units decreased from 21 % in 1992 to 15,3 % during the investigation period.

(d) Profitability

- (58) The overall profitability of Community producers declined progressively from 4,7 % in 1992 to 1,3 % during the investigation period.
- (59) In this respect, one should keep in mind the very specific nature of the handbag industry, which includes a large number of SME's, whose main characteristic is the manufacture of handbags made almost exclusively to order, after a direct-costing analysis, showing an expected profit for each model. In view thereof, no such company can incur losses for more than a few months without being forced to close down due to lack of cash flow. In this respect it should be mentioned that a large number of closures have occurred during the period covered.

(e) Employment and company closures

- (60) Employment in the sector declined from about 76 000 people in 1992 to 57 000 people in the investigation period, a drop of 24 %.
- (61) Figures on employment and company closures refer to the leather goods sector globally (including manufacturers of all types of bags and small leather goods of all materials — leather, plastic and textile). No specific figures per product concerned are available. Neither would these be meaningful on a product specific basis, given that companies in the sector often manufacture several products using the same employees and equipment. Although these figures refer to the leather goods manufacturing sector globally, they are a reflection of the situation of the sector. Indeed, due to the interchangeability of resources for the manufacture of the different products, the losses of employment in one product could have been compensated by increases in another, and so overall employment figures would have remained stable. However, as established above, this is not the case here.
- (62) Company closures in the sector have amounted to around 400 during the investigation period. The figures refer to the sector globally also.

(f) Conclusion on injury

- (63) An examination of the economic indicators mentioned above, in conjunction with the conclusions drawn in respect of the volume of imports and their prices show that the Community producers' situation has deteriorated between 1992 and the investigation period in respect of the product concerned. As has been demonstrated, the Community industry as a whole suffered declining sales volume, loss of market share, declining employment and declining profitability.
- (64) It is therefore the view of the Commission that the Community industry has suffered injury which can be considered as material within the meaning of Article 3 of the basic regulation.

F. CAUSATION

1. Effects of the dumped imports

- (65) The characteristics of the handbag industry, essentially operating on orders as mentioned above, explain the extreme vulnerability of this industry, which has no means, over an extended period of time, to resist sustained pressure from injuriously-priced dumped imports.
- (66) Indeed, penetration of the Community market by imports from the People's Republic of China at dumped prices which significantly undercut the prices of Community producers coincided with a loss of market share and a deterioration of the financial situation of the Community industry.

Given the increasing volume of low priced, dumped handbags, concentrated in particular on the textile and plastic categories, it became apparent during the investigation that many Community producers were unable to compete against the dumped imports. This flow of dumped imports has recently been redirected towards leather handbags, a category where Community producers had concentrated their activity in order to maximise profits.

- (67) Accordingly, dumped imports from the People's Republic of China had a negative impact on the situation of the Community industry to a degree which enables it to be classified as material.

2. Effects of other factors

(a) Imports from other third countries

- (68) As to the question of whether factors other than the dumped imports from the People's Republic of China might have led to the precarious situation of the Community industry, particular reference was made by certain interested parties to imports into the Community of handbags originating in India.
- (69) In this respect, available Eurostat data shows that the volume of imports of handbags from India increased by from 7 million units in 1992 to 8,6 million units in the investigation period, i.e. an increase of 23 %. As concerns the prices of these imports, these have remained stable at ECU 6 per unit, well above the prices of Chinese handbags. The share of volume of the Community market occupied by imports of handbags from India has also remained stable at 5,8 % from 1992 to the investigation period.
- (70) As to imports of handbags from Hong-Kong, when measured in units, these have increased from 1,8 million units in 1992 to 7,5 million units in the investigation period. With respect to total imports of handbags into the Community, Hong-Kong increased its share of the volume of Community handbag imports from 2,2 % in 1992 to 6,5 % in the investigation period. However, the share of the Community market occupied by imports of handbags originating in Hong-Kong has remained at relatively low levels, increasing from 1,5 % in 1992 to 5,1 % in volume in the investigation period.
- (71) As to imports from other third countries, their share of total imports has decreased from 15,3 % in 1992 to 9,5 % in the investigation period. The share of the Community market occupied by these imports has decreased from 10,6 % of volume in 1992 to 7,5 % in the investigation period, i.e., by 29 %.
- (72) It should be noted that the Community market share of all third countries, excluding the People's Republic of China, has remained stable from 1992

to the investigation period, at 18 % when measured in units.

(b) Internal competition

- (73) It has been argued by several interested parties that there is significant internal competition in the Community among producers in Spain, Portugal, France and Italy and it is for this reason that certain companies may find themselves in an adverse economic situation.
- (74) In this respect, it should be noted that it was the Community producers of handbags in those Member States which were specifically investigated and therefore any well-being on the part of some producers at the expense of others would have been reflected in the global figures established for the complainant EC industry. Any impact of the alleged internal competition has thus been fully taken into account and it is concluded that the material injury established above cannot be attributed to any internal competition. In this respect it should also be noted that the share of the Community market of other manufacturers of handbags in the Community not supporting the complaint has also decreased from 8,4 % in 1992 to 5,5 % in the investigation period, when measured in units.

3. Conclusion on causation

- (75) Although certain factors may have contributed to the injury suffered by the Community industry, it is the conclusion of the Commission that, taken in isolation, the high volumes of dumped imports from the People's Republic of China have caused material injury to the Community industry. This conclusion is based on the various elements set out above and in particular the level of price undercutting, the market share gained by imports of handbags from this country, at the expense of the Community industry, and the deterioration of the profitability of the Community producers.

G. COMMUNITY INTEREST

1. General considerations

- (76) Pursuant to Article 21 of the basic regulation, the Commission has examined, on the basis of all evidence submitted:
- first, the likely positive and negative effects of taking and of not taking measures, and
 - second, whether it can clearly be concluded that it is not in the Community interest to apply measures in this particular case.

For this purpose, the Commission has considered the impact of possible provisional measures for all parties involved in the proceeding and also the consequences of not taking provisional measures.

(77) As regards the information-gathering process, the Commission encouraged all interested parties that made themselves known within the required deadline to submit substantiated information on issues relating to Community Interest. Well after the expiry of the deadline for submitting comments, numerous parties made themselves known, expressed their view on the proceeding and requested to be heard. Given the importance of the issue, in this case, and the need to obtain as much reliable data as possible on which the Commission could base its conclusions, the Commission made every effort to grant a hearing to all interested parties, wherever possible. More than 30 hearings were organised at which the views of more than 300 companies were presented (mostly unrelated importers, traders and department stores from all over the Community). Interested parties were therefore given every opportunity to expound and substantiate their views.

Whilst the validity of some arguments could not be easily ascertained due to their late submission, the Commission has nevertheless reached provisional determinations on the basis of the arguments presented by the interested parties, some of which will be investigated further.

2. Impact on the Community industry

(a) *Nature of the industry*

(78) The Community handbag industry is a fashion industry manufacturing products to which significant value is added in the Community in the form of creative value, innovation and intellectual property. The industry is a significant contributor to employment in the EC, and is one in which important economies of scale are obtained when manufacturing and selling greater volumes. Reference is made to the production and employment figures as quoted above.

The companies operating in it are generally characterised by being both SME's and located in areas of the Community, such as Portugal, Spain, Italy, France and Greece, which are eligible for the highest level of support from the Community structural funds.

(79) As already established in point E above, the injury suffered by the Community industry has been manifested by a decrease in sales in the Community of 12 %. A 29 % decrease in market share between 1992 and the investigation period has also been established. The profitability of the Community industry has deteriorated from 4,7 % to 1,3 %.

The Community industry has been endangered by the fact that it has been prevented from selling sufficient volumes to allow it to earn the necessary means to remain in the business. Large volumes from the People's Republic of China, imported at low prices, have eroded the market share of Community producers.

(80) Under the present circumstances and in order to provide a means for the Community industry to recover from the injury that it is suffering, it is considered that the Community industry would require an increase in the volume of handbags produced and sold on the Community market, thus enabling it to benefit from economies of scale and to improve its financial results.

(b) *Viability and competitiveness*

(81) Concerning the viability and the competitiveness of the Community industry, manufacturers appear to be highly innovative and careful attention is paid to the design of the product concerned. The viability of the Community industry is also evident having regard to the strong performance of the Community industry in export markets.

(82) Exports have increased from 8,5 million units in 1992 to 18,9 million units in the investigation period. The increase of sales on the export markets (mostly to the USA, Japan and Hong-Kong) appears to comprise mainly high quality, high priced handbags: exports of leather handbags represent 80 % of total exports, 70 % of which are exported at prices which are at least 35 % higher than those sold in the EC by Community manufacturers. This performance would also point towards a retreat by Community producers to third country exports due to the price pressure exerted on the Community market by dumped imports of handbags from the People's Republic of China.

(83) Some parties have argued that there is not enough capacity in the Community to manufacture sufficient handbags to meet demand in the Community. It should be mentioned that, since the manufacture of handbags shares equipment and labour with other related products in the leather goods sector (all kinds of bags and small leather goods), it is difficult to quantify exactly the available capacity with respect to handbags specifically. However, the Community industry has available to it a skilled labour force with the necessary know-how to meet a much greater share of demand, provided it can do so at prices which allow it to generate sufficient financial returns, which may be achieved by shielding the Community industry from unfair competition in the form of dumped prices.

(c) *Effects of the imposition/non-imposition of measures*

- (84) Concerning the consequences for the Community industry of the absence of anti-dumping measures, it can be assumed that this would result in the continuation of the downward trend concerning profitability and further worsening of the Community industry's financial situation. It is expected that further factory closures would occur and more jobs would be lost in this labour-intensive industry with already declining employment. Given the high market share built up by imports from the People's Republic of China and the stable market share held by imports from other third countries, a reduction in the number of Community producers would be most likely to result in a reduction in competition in the Community market.
- (85) Some parties have claimed that Community industry should concentrate on the manufacture of high-quality handbags, aimed at the high-end segment of the market, in which it has an advantage over the imported goods. It is considered, however, that this niche market strategy, limited with respect to the quantities sold, cannot be the basis for a whole industry, but allows only certain Community handbags manufacturers — especially those with a brand name or a tradition in the market — to continue in the market. However, for Community manufacturers of non-branded handbags, unless they can manufacture and sell higher volumes, the Commission considers that they will not be able to survive under such a strategy.
- (86) It has been argued that the imposition of anti-dumping duties would not have the effect of increasing the sales of Community manufacturers, but would cause importers to purchase from other third countries. In view of the costs involved in switching their sources of supply and the high mark-up realised by these importers it is questionable whether this argument is valid. Indeed, it is considered more likely that the Community industry will make special efforts to obtain these traders as clients thus increasing its sales volumes. The issue will however be further investigated.
- (87) Indeed, it is likely that if the purchase price differential between imported handbags and those manufactured in the Community were thereby reduced, importers and traders would find it more attractive to purchase from Community sources. Long delivery periods and the need to import in large volumes in order to minimise unit transport cost constitute factors that would be weighted against a closer and more secure source of supply such as handbags manufactured in the Community.
- (88) A number of non-co-operating Community manufacturers, having partially moved their production to the People's Republic of China, have argued that the imposition of anti-dumping measures would result in a further reduction of employment in their manufacturing facilities in the Community due to the impossibility to cross-subsidise the manufacture of low volume handbags in the Community with high volume, low priced imports of handbags from the People's Republic of China. Indeed, a number of non-co-operating Community producers (mainly located in Germany and in the United Kingdom) appear to maintain a small production in the Community by achieving higher margins for handbags imported from the People's Republic of China.
- (89) In this respect, it is expected that any benefit in the form of increased sales achieved by the Community industry as a consequence of the imposition of measures, will also accrue to these importing Community producers, who would therefore also benefit from the anti-dumping measures. In any event, these parties still have the possibility of sourcing the product concerned from the People's Republic of China. In addition, they will still benefit from low import prices even after the imposition of measures, since these should in no case be higher than the Indonesian costs (including profit) as used for the calculation of normal value. This issue will, nevertheless, be further investigated after the imposition of provisional duties.
- ### 3. Impact on upstream industries
- (90) The possible diminution or disappearance of the Community manufacturers of handbags, in the absence of measures, will have a direct and immediate effect on Community manufacturers of the raw materials and accessories. To this end only information on the effects that the imports of finished textile and plastic handbags have had on manufacturers of the raw material in the Community has been provided. The increase in imports of finished textile and plastic handbags originating in the People's Republic of China, using materials sourced in the People's Republic of China and other neighbouring countries, has caused numerous manufacturers of these raw materials in the Community to close their facilities.
- (91) It has been argued that if measures were to be imposed, they would damage other sectors of the economy such as Community exports to the People's Republic of China of raw material and accessories used in the manufacture of handbags.

However, evidence has been submitted which appears to show that the majority of manufacturers in the People's Republic of China source the accessories in the Far East, mostly in China itself, while the raw materials are being sourced in neighbouring countries such as Taiwan and the Republic of Korea. Moreover, it should be pointed out that no evidence that exports from the Community of raw materials would be seriously affected by the imposition of anti-dumping duties on handbags has been provided to the Commission.

- (92) It follows, in view of the above, that if the Community handbag industry is able to maintain or regain its market share as a consequence of measures this would also be to the benefit of the Community manufacturers of raw materials and accessories in the sector. In this respect it should be noted that it was found that all the sampled Community producers visited by the Commission proved to purchase raw materials and accessories from Community suppliers.

4. Impact on importers-traders

- (93) Several importers, traders and their representative associations have claimed that the imposition of anti-dumping measures on imports of handbags would detrimentally affect them; numerous importers would go bankrupt and job losses would occur in the sector.
- (94) The impact of anti-dumping measures on importers/traders should be assessed differently according to whether they also import other products, or only import the product concerned and whether they trade solely in imported handbags or in those manufactured in the Community or in third countries. In the first cases, the impact of any anti-dumping measure would be likely to be diluted by the income achieved on other products or in handbags manufactured in the Community or in third countries. In the second case, however, the impact of any anti-dumping measures could be greater. Nevertheless, this impact should be seen in the perspective of evidence submitted by the sampled unrelated importers showing a high gross mark up between the cif import price and to the retailer of often over 70 to 80 %. This gross mark up was moreover found to yield a significant net profit margin for some importers. However, this aspect will be investigated further.
- (95) Some importers have argued that the imposition of anti-dumping measures would render it impossible to source from the People's Republic of China,
- thus seriously disrupting the trade pattern, in the sense that these importers would now be obliged to source from other third countries. The likelihood of this occurring has been considered at recital (86) above. In this respect it should also be recalled that anti-dumping measures are not intended to prevent imports from the exporting country concerned at fair prices, nor are they aimed at stopping traders from importing from other sources of supply in alternative third countries. Anti-dumping measures are not intended either to shield the Community industry from imports from third countries at competitive prices. Anti-dumping measures are intended to eliminate unfair competition.
- #### 5. Impact on consumers
- (96) It has been argued that if anti-dumping measures were to be imposed in this particular case, these would have the effect of unduly taxing the consumer or restricting his choice. It has also been argued that any measures would adversely affect those people with limited income who are obliged to buy handbags at the lower end of the scale.
- (97) However, in this particular case it seems unlikely that the anti-dumping measures in the form of duties will be fully passed on to the end-consumer in the form of a significant increase in prices, this conclusion being reached taking into account the high existing mark up of traders of handbags (see recital (94)). Whilst anti-dumping duties would have to be borne somewhere between the importer and the consumer, given the relatively high mark up between the cif import price and the price to a retailer of often over 70-80 %, it seems quite unlikely that it would necessarily be the consumer who bears the full amount of the duty.
- (98) It is not considered likely, either, that the prices charged by Community producers in the Community would increase. The Community industry strategy is aimed at a reduction of costs through increased sales volume, price tending to remain relatively stable and marking them more attractive to distributors instead of imported products. In such a situation, the impact on the price payable by the consumer would therefore be considerably mitigated or even non-existent. This is an issue that is being further investigated. Furthermore, the product investigated is a fashion product where moderate price changes would not be likely to play a predominant role in consumers' choice.
- (99) Therefore, and given the amount of the undercutting and the margins observed at importers level, it is foreseeable that the duties would not have a

significant bearing at the level of the retail price of the product. On the other hand, the duty is likely to benefit Community industry by redressing its competitive position in selling to traders.

6. Trade distorting effects

- (100) Some parties have argued that the imposition of anti-dumping measures would have as a counter effect the closure of the Chinese market for exports of handbags from the Community. In this respect it has been ascertained that Community exports of handbags to the People's Republic of China amounted to a mere 8 000 units in the investigation period, compared to total exports of 25 million units in the same period. The issue of access to the Chinese market for handbags manufactured in the Community is rendered almost meaningless due to the existence of customs duties on imports of handbags into the People's Republic of China amounting to around 45 %.

7. Conclusion on Community interest

- (101) Having examined the various interests involved, the Commission considers that whilst a number of reasons exist for taking measures, there would seem to be no compelling reasons which weigh in favour of not taking action against the imports in question.

Indeed, leaving the Community industry subject to injurious dumping would, as established, add to the difficulties of this industry and could even lead to its disappearance or relocation outside the Community.

It should be recalled that the majority of the companies operating in the sector are SME's, mostly located in areas eligible for Community intervention under the structural funds, which constitutes a supplementary element in favour of provisional measures.

H. PROVISIONAL DUTY

- (102) Given the wide variety of handbags, measures should take the form of an ad valorem duty. For the purpose of establishing the level of this duty, the Commission took account of the dumping margin established and of the amount of the duty necessary to eliminate the injury sustained by the Community industry.
- (103) In assessing the injury elimination level, the Commission took account of the fact that dumped imports from the People's Republic of China have significantly undercut Community producer's prices, eroding profitability and causing a gradual reduction in employment as well as a number of

company closures. Consequently, the removal of injury would require that export prices of handbags originating in the People's Republic of China be increased to a sufficient degree to allow the Community industry to cover its costs and achieve a reasonable profit.

- (104) The investigation has established that a profit margin of 5 % should be regarded as representing an appropriate minimum, taking into account the need for long-term investment, and the amount which the Community industry could reasonably be expected to make in the absence of injurious dumping.
- (105) As for the calculation of the injury threshold, i.e. price underselling, to the percentage of the undercutting found, the weighted average profit shortfall of the sample Community producers during the investigation period was added, on a category by category basis. Following the above, thus, the profit shortfall was 3,7 %. The weighted average injury margin amounts, therefore, to 32 %. Expressed as a percentage of the free-at-the-Community-frontier price the injury margin amounts to 39,2 %.
- (106) For the companies which requested and were granted individual treatment, their injury margin, when expressed as a percentage of the free-at-the-Community-frontier price amounts to the following:
- For Shilton, given that the dumping margin found is nil, in accordance with Article 7 (2), it was not considered necessary to calculate an individual injury margin.
 - For Lee & Man, the injury margin amounts to 30,7 %.
- (107) In accordance with Article 7 (2) of the basic regulation, as the injury elimination level is below the dumping margin found, the anti-dumping duty calculated on the basis of the free-at-frontier price should amount to 39,2 %.

For the companies which were granted individual treatment, the anti-dumping duty should amount to the following:

- Jane Shilton: nil
- Lee & Man: 30,7 %.

I. FINAL PROVISION

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of handbags falling within CN codes 4202 22 10, 4202 22 90 and 4202 21 00, originating in the People's Republic of China.
2. The rate of the provisional anti-dumping duty on the basis of the net, free-at-Community-frontier price, before duty, shall be as follows:

Country	Products manufactured by	Rate of duty (%)	Taric additional code
People's Republic of China	All companies with the exception of:	39,2	8900
	— Lee & Man Handbags Manufacturing Ltd	30,7	8960
	— Jane Shilton (Pacific) Ltd	0,0	8961

3. Unless otherwise specified, the provisions in force concerning duties and other customs practices shall apply.
4. The release of the product referred to in paragraph 1 for free circulation in the Community shall be subject to the provision of a security equivalent to the amount of the provisional duty.

Article 2

Pursuant to Articles 20 and 21 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 entry into force of this Regulation.

Article 3

Subject to Articles 7, 9, 10 and 14 of Regulation (EC) No 384/96, Article 1 of this Regulation shall apply for a period of 6 months unless the Council adopts definitive measures before the expiry of that period.

Article 4

This Regulation shall enter into force on the day of 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, 3 February 1997.

For the Commission

Leon BRITTAN

Vice-President

DECISION No 210/97/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 19 December 1996

adopting an action programme for customs in the Community (Customs 2000)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty ⁽³⁾ in the light of the joint text approved on 10 October 1996 by the Conciliation Committee,

(1) Whereas the completion of the internal market on 1 January 1993, the entry into force of the Treaty on European Union, the enlargement of the Community to include new States, the extension of the Community Transit System to include Poland, the Czech Republic, Slovakia and Hungary and the rapid development of trade between the Community and the rest of the world, in particular as a consequence of the General Agreement on Tariffs and Trade (GATT) agreements signed in April 1994 and approved by the Council on 19 December 1994, require the clear identification and implementation of strategic guidelines, so that the role that customs services are expected to play in the Community may be better defined;

(2) Whereas, although the completion of the internal market eliminated controls on goods at all the internal borders of the Union, substantial differences persist between the home markets of the Member States and the internal market; whereas the continuing development of the internal market towards a genuine 'home market' must therefore be encouraged;

⁽¹⁾ OJ No C 346, 23. 12. 1995, p. 4 and OJ No C 23, 27. 1. 1996, p. 7.

⁽²⁾ OJ No C 301, 13. 11. 1995, p. 5.

⁽³⁾ Opinion of the European Parliament of 25 October 1995 (OJ No C 308, 20. 11. 1995, p. 46), common position of the Council of 22 December 1995 (OJ No C 37, 9. 2. 1996 p. 11) and Decision of the European Parliament of 16 April 1996 (OJ No C 141, 13. 5. 1996, p. 36). Decision of the European Parliament of 10 December 1996 and Decision of the Council of 19 December 1996.

(3) Whereas the Member States and the Commission take all the measures necessary to enable customs services to discharge their responsibilities under the provisions for enforcement of common policies, in particular in the context of monitoring implementation of the common commercial policy, the common agricultural policy and the common fisheries policy, as efficiently as possible;

(4) Whereas the fact that there are no internal borders, while enabling goods to move freely throughout Community customs territory without any customs formalities, makes it necessary to carry out procedures and controls of equivalent effectiveness at every point of that territory on entry or exit in order to safeguard the application of Community policies and to protect the legitimate interests of citizens and economic operators as well as the Community's financial interests, while respecting the need for speed and fluidity in external trade;

(5) Whereas the application of these procedures and controls at the point of entry into, or exit from, Community customs territory or at the point in that territory where customs clearance is carried out is the responsibility of the customs administrations of the Member States; whereas the effectiveness of the action of those customs administrations is an essential condition for guaranteeing the proper management of the internal market; whereas, in cases where it is necessary to ensure, inter alia, a high degree of protection of the Community's financial interests, criteria agreed at Community level shall determine the nature of the controls to be carried out;

(6) Whereas, for the protection of the financial interests of the European Community, cooperation should be strengthened so that the customs administrations of the Member States may operate as efficiently and effectively as would one single administration;

(7) Whereas equivalent results can be obtained from customs action in the application of Community law only by strengthening cooperation and collaboration among the customs administrations of the Member States and between them and the Commission; whereas the development of such cooperation can only strengthen the effectiveness of instruments for

the management of the borders of the single market such as Council Regulation (EEC) No 339/93 of 8 February 1993 on checks for conformity with the rules on product safety in the case of products imported from third countries⁽¹⁾;

States for the content and organization of vocational training;

- (8) Whereas, in its communication of 16 February 1994 to the European Parliament and the Council on the development of administrative cooperation in the implementation and enforcement of Community legislation in the internal market, the Commission identified customs as one of the various fields to be covered by the Community; whereas, in its Resolution of 16 June 1994 on the same subject⁽²⁾, the Council invited the Commission and the Member States to pursue work actively in this field;
- (9) Whereas the need for customs action with regard to the fight against the growth of illicit trafficking and fraud should be emphasized; whereas the Community must be able, within the framework of its own powers, to support the action of its Member States; whereas, without prejudice to the obligations arising from Council Regulation (EEC) No 1468/81 of 19 May 1981 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the rules on customs or agricultural matters⁽³⁾, or from any other regulation that may replace it, full advantage should be taken of every possibility for administrative cooperation that Community rules provide;
- (10) Whereas individual action by each administration is incapable of achieving such as result; whereas it is essential for customs provisions to be applied in such a way as to ensure the proper functioning of the internal market; whereas a Community framework is therefore necessary to establish plans and priorities in order to arrive at coordinated action by the Community and the Member States to ensure that customs administrations are fitted to the tasks entrusted to them in the framework of a market with no internal borders;
- (11) Whereas the implementation of a Community action programme constitutes one of the most suitable ways of achieving these objectives; whereas, in the interim and final reports to be submitted, the Commission will consider whether establishing a customs academy would be an effective way of improving the training of Member States' customs officers in Community law;
- (12) Whereas Article 127 of the Treaty makes clear that Community action in the field of vocational training shall fully respect the responsibility of the Member
- (13) Whereas the objectives of this action programme must be grounded in a framework of objectives common to the Community and the Member States, in order to guide their action;
- (14) Whereas a first initiative has been taken with the implementation of the Community action programme for the vocational training of officials from the customs administrations (Matthaeus), established by Decision 91/341/EEC⁽⁴⁾;
- (15) Whereas consideration must be given, in the fields of training and technical cooperation, to the external dimension of the action taken by the Community and the Member States; whereas the Member States may provide that their uniformed officials at the point of entry to and exit from the customs territory of the Community visibly wear the twelve-star symbol of the European Community;
- (16) Whereas the Community and the Member States contribute to the financing of the action programme and the contribution paid out of the general budget of the European Communities will appear in Section III (Commission); whereas this Decision lays down, for the entire duration of the programme, a financial framework constituting the principal point of reference, within the meaning of point 1 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995, for the budgetary authority during the annual budgetary procedure;
- (17) Whereas a programme of five years' duration should be laid down;
- (18) Whereas this programme establishes the principles by which customs policy will be guided over the next five years; whereas implementation of this programme is coordinated and organized in partnership between the Commission and the Member States in the Customs Policy Committee, made up of Directors-General of Customs Administrations from the Commission and the Member States, or their representatives;
- (19) Whereas this action programme is based on the experience acquired during the pilot project launched by the Commission 1994 and takes into account the findings set out in its communication of 29 March 1995 entitled 'Fraud in the transit procedure — solutions foreseen and perspectives for the future';
- (20) Whereas this programme comes within the scope of the powers laid down by the Treaty and takes the principles of subsidiary and proportionality into account,

⁽¹⁾ OJ No L 40, 17. 2. 1993, p. 1. Regulation as amended by the 1994 Act of Accession.

⁽²⁾ OJ No C 179, 1. 7. 1994, p. 1.

⁽³⁾ OJ No L 144, 2. 6. 1981, p. 1. Regulation as amended by Regulation (EEC) No 945/87 (OJ No L 90, 2. 4. 1987, p. 3).

⁽⁴⁾ OJ No L 187, 13. 7. 1991, p. 41.

HAVE ADOPTED THIS DECISION:

Article 1

Establishment of the programme

1. This Decision establishes a Community action programme supporting and complementing the action undertaken by Member States in the customs field.
2. The action programme shall be called the 'Customs 2000 Programme' and shall be implemented for the period 1 January 1996 to 31 December 2000.
3. For the implementation of this programme, Community action shall be based on the common framework of objectives referred to in Article 4.
4. The procedure for implementing and evaluating this programme shall be as laid down in Articles 3 and 17 respectively.
5. For the purposes of this Decision, 'customs administration' shall mean the public administration which is empowered to enforce customs legislation.

Article 2

Measures contributing to awareness of customs in the Community

The Member States may provide that their uniformed officials at the point of entry to and exit from the customs territory of the Community visibly wear the twelve-star symbol of the European Community.

Article 3

Implementation of the programme

The implementation of this programme shall be coordinated and organized in partnership between the Commission and the Member States in the Customs Policy Committee, made up of Directors-General of Customs Administrations from the Commission and the Member States or their representatives, who shall adopt the necessary provisions for the purpose in accordance with their respective powers.

Article 4

Common framework of objectives

The common framework of objectives provided for in Article 1 (3), within which the Commission and the Member States shall establish plans and priorities in order to define and carry out coordinated action to ensure that customs action matches the needs of the Community's internal market, shall aim to:

- 1) guarantee that Community law is applied in such a way as to achieve equivalent results at every point of Community customs territory in order to:
 - avoid distortions likely to prejudice the proper functioning of the internal market which might arise owing to variations in the way customs procedures are applied in the various parts of the Community;
 - protect the Community's interests, particularly its financial interests;
 - afford an equivalent level of protection to the Community's citizens and economic operators, at whatever point in Community customs territory customs clearance formalities are carried out, while ensuring the fluidity required for international trade operations;
- 2) provide a framework for considering the Community dimension in the organization of services and in the provision of infrastructures and equipment, and promote the joint use of operational material contributing to the implementation of Community rules;
- 3) foster initiatives that Member States may propose to implement, singly or jointly, to improve the overall efficiency of customs administrations in carrying out their tasks;
- 4) help Member States develop training for customs administration officials by adapting it to their changing role in the implementation of Community customs rules and common policies at external borders;
- 5) contribute, by appropriate actions in the fields of training and technical assistance and cooperation, to the establishment or the development of high-quality customs services in third countries that so request under agreements which the Community has concluded or may conclude with those third countries, and by this means encourage the development of Community trade;
- 6) encourage openness and efficiency of customs action for the benefit of legitimate trade by strengthening relations between the Community's customs administrations, business, legal and scientific circles, and operators engaged in foreign trade;
- 7) help the customs administrations of the associated countries that wish to accede to the European Union.

Article 5

Customs controls

In accordance with the objectives defined in point 1 of Article 4, the Member States and the Commission shall:

- 1) make sure that the customs controls which are carried out protect the interests, particularly the financial interests, of the Community, ensure an effective, efficient and homogeneous application of Community rules and common policies, provide an equivalent level of

protection and make it possible to check that procedures relating to conformity with technical standards, to the safety of imported products and to dangerous products have been complied with, at whatever point in Community customs territory customs clearance formalities are carried out, while ensuring the smooth flow of trade;

- 2) take special care that customs administrations can intervene efficiently for the purposes of the proper application of other Community provisions affecting controls at the point of entry into, or exit from, Community customs territory or the point in Community customs territory where customs clearance formalities are carried out. This applies especially to provisions relating to common policies, to development cooperation and to the protection of intellectual property, of the environment, of consumers and of the cultural heritage;
- 3) work in collaboration to obtain equivalent results with regard to both controls on and simplification of trade in order to avoid distortions of competition which could lead to deflection of trade, and to ensure equal treatment between operators;
- 4) in order to achieve these objectives, adjust working methods, equipment and materials so as to reinforce the effectiveness of controls; foster in particular the development of targeting, risk analysis and a posteriori auditing techniques and, where necessary, determine the nature of controls in order to achieve equivalent results;
- 5) ensure that administrative penalties for breaches of Community rules are of an effective, proportionate and deterrent character;
- 6) take full advantage of all the possibilities provided by Community legislation setting up administrative cooperation as well as by agreements on mutual assistance concluded with third countries;
- 7) have recourse to the appropriate facilities for analysing and evaluating the implementation of controls and procedures put into operation;
- 8) examine the powers of Member States' customs administration officials and take care to promote the best possible use of available resources.

Article 6

Monitoring and adjustment of Community rules and procedures

1. The Commission, in partnership with the Member States and in close consultation with the economic partners, shall arrange for the continuous monitoring of Community rules and procedures, in particular as they

arise from the Community Customs Code established by Regulation (EEC) No 2913/92⁽¹⁾ and its implementing provisions.

2. The aim of such monitoring shall be to ensure that these rules and procedures are adjusted to:
 - protecting the interests of the Community and of Member States;
 - the needs of operators engaged in foreign trade, particularly through simplification of the said rules and procedures.
3. By carrying out specific joint actions, as described in Article 10, the Commission and the Member States shall endeavour to identify any difficulties in implementing these rules as well as any possible malfunctioning of the internal market that divergent practices might entail.

Article 7

Recovery

To improve the results obtained in the post-clearance collection of duties unpaid or evaded on the recovery of amounts wrongly paid out, the Commission shall submit a report on the Member States' legal provisions and the difficulties encountered by their customs authorities.

Within the framework of its powers, the Commission shall do its utmost to coordinate the measures taken in this field by the Member States and shall propose appropriate amendments to safeguard the interests of the Community.

Article 8

The fight against fraud

1. For the purpose of fulfilling the objectives set out in points 1 and 2 of Article 4 and points 2 and 5 of Article 5, the Commission and the Member States shall make every effort to use as rationally and efficiently as possible the means by which they act to combat fraud and illicit trafficking. This action is to be interpreted as covering any Community rules or provisions applicable to any trade in goods between the Community and third countries, including the presence or transit of goods in connection with such trade.

2. To this end, the Commission and the Member States shall draw up, carry out and further develop a policy of combating customs fraud at Community level in order to take account of the progress of European integration, the Community's international commitments and developments in the customs situation in this regard, by using their resources in the best possible and complementary manner.

⁽¹⁾ OJ No L 302, 19. 10. 1992, p. 1. Regulation as amended by the 1994 Act of Accession.

This policy shall aim in particular at:

- 1) taking maximum advantage of existing legislative provisions and, where necessary, amending them;
- 2) improving the collection, analysis, distribution and exploitation of information at Community level, making the fullest use of information technology, and increasing the use of computer systems by the customs services as rapidly as possible; this includes:
 - the need for the Commission and the Member States to take the action required, within the framework of the TIR Convention, with a view to the computerized control of the use of TIR carnets;
 - the computerization of the Community Transit System by 1998;
- 3) identifying obstacles which impede efficient action and cooperation in the fight against fraud, in order to eliminate them as far as possible, in particular with regard to the role and powers of customs administration officials;
- 4) ensuring that effective penalties are applied;
- 5) pursuing and developing coordinated actions, in particular Community investigative or control missions in third countries;
- 6) developing cooperation with third countries, particularly the associated countries of Central and Eastern Europe, and with competent international organizations, as well as with relevant business circles;
- 7) making greater use, for the benefit of the whole Community, of the capacities of Commission and Member State staff in third countries;
- 8) ensuring that irregularities are followed up.

Article 9

Improvements in working methods

The Commission shall support actions aimed at improving the working methods of customs administrations. In partnership with the Member States, it shall encourage the coordinated development and application of new working methods, in particular in the following fields:

- 1) risk-analysis, in order to determine whether goods subject to customs control must undergo a documentary or a physical examination before release is granted;
- 2) the use of audit techniques to check undertakings' accounts;

- 3) simplified procedures for assigning goods to, and discharging them from, a customs-approved treatment;
- 4) the use of computerized handling of customs procedures, including use of the most up-to-date techniques for electronic data exchange, taking into account the current state of computerization of national administrations and the interests of Community economic operators, as well as relevant developments in the international sphere; in partnership with the Member States, the Commission will study the possibilities of developing computerized means suited to facilitating the exchange of information between customs administrations;
- 5) the conclusion of memoranda of understanding with economic operators in order to establish appropriate facilities for controlling, checking and exchanging information or data which may help to protect the Community's interests.

Article 10

Specific joint actions

1. For the purposes, in particular, of implementing the actions specified in this programme, the Commission shall decide each year, in partnership with the Member States, which specific sectors of Community customs legislation will be subject to monitoring.

Such monitoring shall be carried out by joint teams made up of customs experts from the Member States and the Commission.

The teams thus made up shall, on the basis of a theme-by-theme approach, visit particular points in Community customs territory. At the end of these visits, they shall draw up a report identifying and analysing the best working methods as well as any difficulties in implementing the rules observed at the various sites studied and, where appropriate, including suggestions for the adaptation of both Community rules and working methods in order to improve the efficiency of customs actions as a whole. These experts reports shall be communicated to the relevant departments of the Member States and of the Commission.

2. In addition to such monitoring, the Commission, in partnership with the Member States, shall also have recourse, *inter alia*, to:

- (a) complementary studies intended to show the points of view of the various operators engaged in foreign trade;
- (b) the organization of working parties and of seminars charged with studying ways of effecting a coordinated improvement in the operation of customs administrations.

*Article 11***Role and powers of officials of customs administrations**

The powers of officials of Member States' customs administrations shall be examined, within the framework of Article 3, with regard to the role they are required to play in implementing Community law.

*Article 12***Rational and coordinated use of resources**

1. For the purposes of implementing point 2 of Article 4, the Commission shall set up a Community framework for consultation and coordination in order to ensure that account is taken of the requirements of the internal market and of the needs of Member States.

2. Within this Community framework for consultation and coordination, the Commission, in partnership with the Member States, shall identify the means necessary for customs action and the resources enabling it to be carried out, in particular through the use of any available instruments of Community finance, through joint operations and through other arrangements or actions which might prove necessary in order to attain the objectives of this programme.

3. To help identify such possibilities for action, the Commission shall organize meetings of experts, as well as seminars, bringing together, as necessary, representatives of the business circles concerned.

4. The Commission, in partnership with the Member States, shall take care to promote the best possible use of resources by simplified customs rules and procedures and by the use of information technologies.

*Article 13***Administrative customs penalties**

1. In order to ensure that penalties are such that Community legislation is enforced with equal effect and to protect the Community's financial interests effectively, the Commission, in partnership with the Member States, and with due regard for

— the principles set out in point 5 of Article 5;

— the respective powers of the Community and the Member States and the principles of Member States' national law, in the light of the principles of subsidiarity and proportionality,

shall identify irregularities in the customs sector, on the basis of the obligations resulting from the Community Customs Code and from its implementing provisions and on the basis of a comparative study of their importance and ranking in the legal order of the Member States in the light of their degree of gravity. The Commission shall

submit any proposals it considers necessary to achieve these objectives.

2. The Commission shall inform the budgetary authority of the content of the measures which it has adopted.

*Article 14***Training actions**

1. The Member States and the Commission shall implement the measures necessary to attain the objectives defined in point 4 of Article 4, bearing in mind Decision 91/341/EEC and respective responsibilities for training policy.

2. Special attention shall be paid to the development of training for instructors and to the initial training given to customs office in order that common teaching modules relating to the full range of customs rules and procedures and common policies may be drawn up and provided. Specific actions must be introduced and carried through in support of Member States' efforts in the field of continuing training so as to provide staff of customs administrations with the level of training necessary to carry out their tasks.

3. This training shall be complemented by actions aimed at making Community customs receptive to the best working methods and techniques developed in third-country customs administrations and, more generally, by increased cooperation with these countries.

To this end, according to the needs identified and on a reciprocal basis, exchanges of officials with these administrations, as well as training seminars, may be organized, with the Community budget taking responsibility for that share of the cost of these operations relating to officials from Community administrations as well as contribution, to be determined on a case-by-case basis, to the costs linked to the organization of the seminars. In accordance with the principle of sound financial management, the Commission shall finance the operations and the organization of seminars which are the most cost-effective.

4. The Commission will examine, in partnership with the Member States, the possibilities of introducing customs training measures, including common core training programmes for implementation by national administrations, directed firstly towards joint training of senior officials of the customs administrations of the Member States and the Commission or other Community institutions and secondly towards in-service training for such officials, inter alia by means of exchanges of experience and the organization of seminars on Community territory.

5. The training of customs officers as provided for in the Mattheus Programme shall be extended to the associated countries of Central and Eastern Europe that wish to accede to the European Union, if the experience gained with the pilot projects currently under way so justifies.

*Article 15***Training and technical assistance actions for the customs administrations of third countries**

Within the framework of the implementation of point 5 of Article 4, the Commission shall ensure, in partnership with the Member States, the coordination of the training and technical assistance and cooperation actions carried out by the Community and the Member States for the benefit of third countries' customs administrations, to ensure the consistency of Community action on training, both external and internal. The Commission shall also, in partnership with the Member States and as far as available resources allow, ensure the implementation of training and technical assistance and cooperation actions for the benefit of third-country administrations. In the framework of these actions, it shall bear the expenses that arise.

*Article 16***Relations with operators engaged in external trade**

1. Within the framework of the implementation of point 6 of Article 4, the Commission shall set up actions, or give support to initiatives taken by the Member States, aimed at improving and strengthening relations between the customs administrations of the Community and operators engaged in foreign trade. The Commission shall take particular account of findings and information provided by operators engaged in foreign trade.

2. These actions may take the form, in particular, of:

- the development, publication and distribution of information media intended to make operators more familiar with customs procedures, and in particular with simplified customs clearance procedures, which aim to strengthen the competitiveness of the Community economy;
- an in-depth dialogue between business circles, the Commission and the Member States, in particular on proposed customs measures which may have a significant influence on economic activity, on the simplification of customs rules and procedures and on the subjects referred to in point 1 of Article 4;
- training activities aimed at making the various foreign trade operators more familiar with Community law.

*Article 17***Evaluation and reports**

1. This programme shall be subject to continuous evaluation, carried out in partnership between the Commission and the Member States.

The evaluation shall be pursued by means of the reports referred to in paragraph 2 and by means of specific activities.

2. Member States shall forward to the Commission:
- by 31 December 1997 at the latest, an interim report, and
 - by 30 June 1999 at the latest, a final report on the implementation and the impact of this programme.
3. The Commission shall submit to the European Parliament and to the Council:
- by 30 June 1998 at the latest, an interim report on the implementation of this programme;
 - by 30 June 1999 at the latest, a communication on the desirability of continuing this programme, accompanied, if necessary, by a suitable proposal;
 - by 30 June 2001 at the latest, a final report on the implementation of this programme.

These reports shall also be forwarded to the Economic and Social Committee and to the Committee of the Regions for information.

*Article 18***Financing**

1. Without prejudice to actions for which funding is provided under other Community programmes, the financial framework for the implementation of this programme for the period 1 January 1996 to 31 December 2000 is hereby set at ECU 50 million in accordance with the detailed procedures annexed hereto.

The annual appropriations shall be authorized by the budgetary authority within the limits of the financial perspective.

2. Each Member State shall, to the extent of its involvement, participate in the achievement of the aims of the programme in compliance with its budgetary procedures and plans.

Article 19

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

It shall apply from 1 January 1996.

Article 20

This Decision is addressed to the Member States.

Done at Brussels, 19 December 1996.

For the European Parliament

The President

K. HÄNSCH

For the Council

The President

S. BARRETT

ANNEX

Breakdown of the financial framework referred to in Article 18

(in ECU millions)

	1996	1997	1998	1999	2000	Total
<i>Internal policies</i>						
1. Redeployment of internal market appropriations	2	2,3	2,6	2,9	3,2	13
2. 'Customs 2000' computerization	1	4	6,5	6,5	5	23
3. Improvement of means of combating fraud	1	1,5	1,5	1,5	1,5	7
<i>External action</i>	1	1,5	1,5	1,5	1,5	7
TOTAL	5	9,3	12,1	12,4	11,2	50

COMMISSION STATEMENT

The Commission undertakes to examine, in partnership with the Member States, the possibility of developing, while respecting the principle of subsidiarity, long-term exchanges of officials between national administrations to, for the duration of the exchange, posts in the customs administrations of other Member States corresponding to their abilities. The Commission and the Member States will take account of experience acquired from the implementation of the Matthaëus Programme, and in particular from the application of Article 5 of Council Decision 91/341/EEC of 20 June 1991 on the adoption of a Community Programme on the subject of the vocational training of customs officials (Matthaëus Programme).
