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I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 1458/2007

of 10 December 2007

imposing a definitive anti-dumping duty on imports of gas-fuelled, non-refillable pocket flint lighters originating in the People's Republic of China and consigned from or originating in Taiwan and on imports of certain refillable pocket flint lighters originating in the People's Republic of China and consigned from or originating in Taiwan

THE COUNCIL OF THE EUROPEAN UNION,

16,9 % on imports of gas-fuelled, non-refillable pocket flint lighters originating, *inter alia*, in the People's Republic of China ('PRC' or 'China').

Having regard to the Treaty establishing the European Community,

- (2) In 1995, by Council Regulation (EC) No 1006/95 ⁽³⁾ the original *ad valorem* duty was replaced by a specific duty of ECU 0,065 per lighter.

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (the basic Regulation), and in particular Articles 9 and 11(2) thereof,

- (3) Further to an investigation in accordance with Article 13 of the basic Regulation ⁽⁴⁾ the above measures were extended by Council Regulation (EC) No 192/1999 ⁽⁵⁾ to (1) imports of gas-fuelled, non-refillable pocket flint lighters consigned from or originating in Taiwan and (2) imports of certain refillable lighters originating in the PRC or consigned from or originating in Taiwan with a free-at-Community frontier, duty unpaid value per piece below EUR 0,15.

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

Whereas:

A. PROCEDURE

1. Measures in force

- (1) In 1991, the Council, by Regulation (EEC) No 3433/91 ⁽²⁾, imposed a definitive anti-dumping duty of

- (4) In 2001, the Council, by Regulation (EC) No 1824/2001 ⁽⁶⁾ confirmed the definitive anti-dumping duties imposed by Regulation (EC) No 1006/95 as extended by Council Regulation (EC) No 192/1999 (existing measures) pursuant to Article 11(2) of the basic Regulation.

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

⁽²⁾ OJ L 326, 28.11.1991, p. 1. Regulation as last amended by Regulation (EC) No 174/2000 (OJ L 22, 27.1.2000, p. 16).

⁽³⁾ OJ L 101, 4.5.1995, p. 38.

⁽⁴⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽⁵⁾ OJ L 22, 29.1.1999, p. 1.

⁽⁶⁾ OJ L 248, 18.9.2001, p. 1. Regulation as amended by Regulation (EC) No 155/2003 (OJ L 25, 30.1.2003, p. 27).

2. Request for a review

- (5) Following the publication of a notice of impending expiry ⁽¹⁾ of the existing measures, on 16 June 2006, the Commission received a request to review these measures pursuant to Article 11(2) of the basic Regulation.
- (6) This request was lodged by BIC S.A., a Community producer representing more than 80 % of the total Community production of gas-fuelled, non-refillable pocket flint lighters. The request for an expiry review was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Community industry.
- (7) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation, the Commission, by notice published in the *Official Journal of the European Union* (notice of initiation) initiated this review on 16 September 2006 ⁽²⁾.

3. Investigation

3.1. Investigation period

- (8) The investigation into the continuation and/or recurrence of dumping and injury covered the period from 1 July 2005 to 30 June 2006 (the 'review investigation period' or 'RIP'). The examination of the trends relevant to the assessment of the likelihood of a continuation and/or recurrence of injury covered the period from 1 January 2003 to the end of the RIP (the period considered).

3.2. Parties concerned by the investigation

- (9) The Commission officially advised the applicant Community producer, the two other Community producers, the exporters/producers in the PRC and the importers known to be concerned, as well as the authorities in the PRC and Taiwan of the initiation of the expiry review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.
- (10) The applicant Community producer, two other Community producers opposing the maintenance of the anti-dumping measure and an importers' association made their views known. All interested parties who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

- (11) In the notice of initiation the Commission indicated that sampling might be applied in this investigation for exporters/producers in the PRC. However, since none of the known exporters/producers in the PRC made themselves known, it was decided that sampling was not required.
- (12) Questionnaires were sent to the applicant Community producer, the two other Community producers, the 62 known exporters/producers in the PRC and 33 importers and the European Lighter Importers' Association (ELIAS). In addition, the producer in the proposed analogue country, Brazil, as well as eight producers in other possible analogue countries, were contacted and sent a questionnaire. Replies were only received from the applicant Community producer and the producer in Brazil, as well as a company in Malaysia, which had been contacted as an alternative analogue country. None of the known producers/exporters in the PRC replied to the questionnaire. Furthermore, none of the importers contacted replied to the questionnaire stating that they do not import the product concerned, but only electronic (piezo) lighters.
- (13) The Commission sought and verified all the information deemed necessary for its investigation and carried out verification visits at the premises of the following companies:

Community producers:

- BIC S.A. HQ — Clichy, France
- BIC IBERIA S.A. — Tarragona, Spain

Producer and related company in the analogue country:

- BIC Amazonia S.A. — Manaus, Brazil
- BIC Brasil S.A. — Cajamar, Brazil

B. PRODUCT CONCERNED AND LIKE PRODUCT

- (14) The product concerned is the same as in the investigation which led to the imposition of the existing measures, i.e. gas-fuelled, non-refillable pocket flint lighters. As described above in recital (3), the product scope was extended in 1999 to include gas fuelled, refillable pocket flint lighters incorporating a plastic tank body ('flint lighters' or 'the product concerned'). The product concerned is currently classified within CN codes ex 9613 10 00 and ex 9613 20 90 (TARIC codes 9613 10 00 11, 9613 10 00 19, 9613 20 90 21 and 9613 20 90 29).

⁽¹⁾ OJ C 321, 16.12.2005, p. 4.

⁽²⁾ OJ C 223, 16.9.2006, p. 7.

- (15) One of the non-complainant producers in the Community claimed that the products produced and sold in the analogue country Brazil were not alike with the products produced in and exported from China into the Community. It was in particular argued that the lighters produced in Brazil were of a higher quality and had a longer lifetime than the ones produced in China. Quality differences as such are, however, not decisive when determining whether products are alike within the meaning of Article 1(4) of the basic Regulation. The investigation revealed that the lighters produced in China and the ones produced in Brazil had indeed the same basic technical, physical and chemical characteristics and end-uses. This claim was therefore rejected.
- (16) Consequently, as shown in the previous investigations mentioned in recitals (1) to (4), and as confirmed by the current investigation, gas-fuelled, non-refillable pocket flint lighters manufactured by Chinese exporting producers and sold in the PRC and on the Community market and the product manufactured and sold by the applicant Community producer on the Community market are in all respects identical or share at least the same basic physical and technical characteristics and no differences in usage exist among them. The same is true for those produced and sold in Brazil. These products are therefore alike within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

1. Preliminary remarks

- (17) As in the previous review investigations, the Chinese exporting producers did not cooperate. Therefore no reliable information on imports of the product concerned to the Community during the RIP could be gathered directly from the exporting producers. Under these circumstances, and in accordance with Article 18 of the basic Regulation, the Commission resorted to the use of the facts available, i.e. Eurostat, the request for the initiation of the review and the data published by the European Anti-Fraud Office (OLAF) on 30 January 2007 (OLAF/07/01) regarding the circumvention of the anti-dumping duty in force.

2. Dumping during the investigation period

2.1. Analogue country

- (18) The existing measures provide for a single, country-wide duty on all imports to the Community of the product concerned originating in the PRC. In accordance with Article 11(9) of the basic Regulation the Commission applied the same methodology as in the original investigation. Accordingly, the normal value was determined on

the basis of the information obtained in a market economy third country (the analogue country).

- (19) Thailand was the analogue country in the original investigation. However, in the subsequent reviews, the Philippines was used as the analogue country since the Thai producers refused to cooperate and since the Philippines was found to be an appropriate choice of analogue country, in view, *inter alia*, of the size and openness of its domestic market.
- (20) In the notice of initiation of the present investigation the Commission indicated its intention to use Brazil as an appropriate analogue country for the purpose of establishing the normal value for the PRC. Brazil was considered appropriate in view of the size and openness of its domestic market and the fact that one Brazilian producer had agreed to cooperate fully in the investigation. Interested parties were invited to comment on this.
- (21) An importers' association opposed the choice of Brazil as analogue country, arguing that there was only one main producer in Brazil and that domestic prices were extremely high. One of the non-complainant Community producers claimed that the level of competition in Brazil was lower than the one on the Chinese domestic market and therefore the markets were not comparable. However, while the number of producers in Brazil was lower than the alleged number of producers in China, the investigation confirmed that there were two producers of the product concerned in Brazil as well as imports from the EU and the PRC. Regarding the lighters imported from the PRC, invoices obtained during the on-spot investigation in Brazil showed that these entered the country at very low prices, thus exerting a downward pressure on the prices charged on the Brazilian market. Moreover, none of the known producers contacted in other possible analogue countries, including the Philippines, agreed to cooperate. A company in Malaysia replied to the questionnaire for producers in the analogue country but since it appeared that this company did not produce lighters itself, Malaysia could not be considered as an analogue country.
- (22) In view of the foregoing it was concluded that Brazil was the most appropriate and reasonable analogue country in accordance with Article 2(7) of the basic Regulation.
- 2.2. Normal value
- (23) Pursuant to Article 2(7)(a) of the basic Regulation, normal value was established on the basis of verified information received from the producer in the analogue country.

(24) The Commission first established that the total domestic sales of the Brazilian producer were made in sufficient quantities and could thus be considered representative within the meaning of Article 2(2) of the basic Regulation.

(25) It was subsequently examined whether each type of the product concerned sold in representative quantities on the analogue country's domestic market could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. It was found that the sales volume on a per type basis, sold at a net sales price equal to or above the cost of production, represented 80 % or more of the total sales volume and the weighted average price of that type was equal to or above the cost of production. Therefore the actual domestic prices, calculated as a weighted average of the prices of all domestic sales made during the RIP, irrespective of whether these sales were profitable or not, could be used.

(26) Normal value was thus determined, as set out in Article 2(1) of the basic Regulation, on the basis of prices paid or payable, in the ordinary course of trade, by independent customers on the domestic market of the analogue country.

2.3. Export price

(27) Since none of the Chinese producers cooperated, the export price of the product concerned was calculated on the basis of facts available in accordance with Article 18(1) of the basic Regulation, in this case Eurostat data.

2.4. Comparison

(28) In order to ensure a fair comparison of the normal value and the export price, due allowance, in the form of adjustments, was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments concerning transport, insurance, and credit costs were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.

(29) One of the non-complainant Community producers argued that the lighters in Brazil were produced at higher costs due to higher quality standards, but did not submit any evidence to quantify and support this claim. Due to the non-cooperation of the Chinese exporting producers, the investigation did not reveal any indications which would have allowed adjusting

the normal value based on alleged quality differences. This claim was therefore rejected.

2.5. Dumping margin

(30) In accordance with Article 2(11) of the basic Regulation the weighted average normal value established for the analogue country was compared with the weighted average export price on an ex-works basis. This comparison showed the existence of significant dumping, the dumping margin amounting to more than 150 %.

3. Development of imports should measures be allowed to lapse

3.1. Preliminary remarks

(31) It is recalled that measures have been in force since 1991. However, there is a long record of circumvention of the measures. In 1999 two kinds of circumvention practices were found: transshipment via Taiwan and the insertion of fake valves into the lighters to make them appear to be refillable and thus avoid the payment of the anti-dumping duty. Consequently, as stated in recital (3), the measures were extended in 1999 to counteract these practices. In 2001 an expiry review of the measures in force showed that they should be extended for a further five years given the likelihood of continuation and recurrence of dumping and injury.

3.2. Current imports and recent findings regarding circumvention of the measures

(32) Import volumes of the product concerned from the PRC and Taiwan in the RIP totalled 11,7 million pieces according to Eurostat. In reality, however, the imports into the Community are much higher since, as proven recently by OLAF, there is massive circumvention of Chinese lighters via Malaysia and Indonesia. According to data published by OLAF in January 2007 over 300 million flint lighters of Chinese origin were transhipped via Malaysia alone during the last four years. The sole purpose of the transshipments was to disguise the true Chinese origin of the goods and thus avoid the payment of the anti-dumping duties.

(33) The OLAF investigation also found that a large amount of lighters imported from Indonesia did not, in fact, originate in that country. The investigation into their true origin is continuing. The applicant is planning to lodge a circumvention case against six countries in the Far East.

(34) In addition to the circumvention by transshipment, as evidenced by OLAF, the applicant, in its review request, provided evidence of misdeclaration of flint lighters (product concerned) as so called electronic (piezo) lighters (not product concerned) in order to avoid the payment of the anti-dumping duty.

(35) The importers' association ELIAS and one importer claimed that the Commission is drawing definitive conclusions from OLAF's ongoing investigation and stated that, it was not in the position to exercise validly their rights of defence and submit comments on the conclusions that the Commission has drawn from these confidential findings.

(36) In this respect, it should be noted that the Commission used only published information to which all interested parties have access, which results were self-explanatory and could not be ignored in the context of this proceeding.

3.3. Evolution of production and capacity utilisation in the PRC

(37) In the absence of cooperation by the Chinese exporting producers in the present and past review investigations, no verifiable data is available on their capacity and capacity utilization. According to the applicant's estimate the total production capacity in the PRC amounts to around 3,9 billion lighters per year, the majority of which are probably flint lighters. This estimate is in line with the data given by Chinese lighter manufacturers on their websites. For example, one single Chinese producer, Zhuoye Lighter Manufacturing Co Ltd, states on its homepage that the output of its three factories amounts to 700 million lighters per year. The producer in question does not, however, specify the breakdown between the product concerned and other types of lighters. According to the applicant, however, production can easily be switched between flint and electronic (piezo) lighters.

(38) On the basis of the above it may be concluded that, in the light of the huge capacity available in the PRC and the apparent flexibility of the production process, which makes it easy to switch between different types of lighters, there is a strong likelihood of increased imports into the Community should measures be allowed to lapse. The proven circumvention practices further demonstrate that the Chinese exporters have a strong interest in the Community market.

3.4. Chinese exports to other third countries

(39) As none of the Chinese exporting producers cooperated, there is no verified information available regarding exports of flint lighters to other third countries. Moreover since third-country statistics available do not distinguish between flint and electronic (piezo) lighters it is not possible to make any comparison between export prices to the Community and export prices to other third countries.

(40) The Community industry has demonstrated that it is successfully competing with Chinese imports on the US market where the Chinese have lost market share. This suggests that there would be a clear incentive for the Chinese producers to shift their exports to the Community market should the measures be allowed to lapse.

(41) The importers rejected above conclusions claiming that the performance of the Community industry in the US market may not be due to its competitiveness but to a business decision to transfer profits from the Community to the USA. The importers further claimed that on the basis of the higher profit margins in the USA the Chinese exporting producers would not have any incentive to shift exports to the Community market.

(42) The importers did not submit any evidence or any further reasoning neither with regard to the alleged profit transfers of the Community industry to the USA, nor the allegedly higher profit margins of the Chinese exporting producers in the US market. These claims were also not confirmed by the verified information available in the investigation file. They were therefore purely speculative and rejected.

(43) It should be noted that the level of competition on the US market cannot be regarded as the unique reason to conclude that the Community industry should be achieving less profit. Other elements, such as customer expectations and price levels, should also be taken into account.

(44) Additionally, the importers claimed that the Community and US markets are similar in the sense that the same safety requirements have to be fulfilled on both markets; it was found that a more stringent requirements with regard to child resistant lighters have been in force in the US since 1994; while such norms were only introduced in the Community in March 2007.

4. Conclusion

- (45) The investigation showed that, whilst the import volumes of the product concerned in the RIP were relatively low, the level of dumping found for these imports was significant.
- (46) In view of the huge capacity available in the PRC and the apparent attractiveness of the Community market to the Chinese exporting producers, as proven by the extensive circumvention practices, it may be concluded that there is a strong likelihood that the volumes of dumped imports into the Community would reach substantial levels should the existing measures be allowed to lapse.

D. DEFINITION OF THE COMMUNITY INDUSTRY

- (47) Within the Community, the like product is manufactured by three producers whose output constitutes the total Community production of the like product within the meaning of Article 4(1) of the basic Regulation.
- (48) It should be noted that as compared to the original investigation contrary to Swedish Match and Flamagas, the complainant's production is still mainly located in the EU (France and Spain).
- (49) The applicant Community producer, BIC S.A. represents about 80 % of the Community production of non-refillable lighters and therefore constitutes the Community industry within the meaning of Article 4(1)

and Article 5(4) of the basic Regulation. The other Community producers were not considered to form part of the Community industry since they did not fully cooperate but only submitted certain information in relation to the impact of the measures on their activities.

E. SITUATION ON THE COMMUNITY MARKET

1. Preliminary remarks

- (50) For the reasons explained in recital (16) above, the analysis with regard to the situation on the Community market was based on collected data relating to gas-fuelled, non-refillable pocket flint lighters and gas-fuelled, refillable pocket flint lighters ('flint lighters' or 'the product concerned').
- (51) Further, as mentioned above, it was not possible to obtain data with regard to the activities of two Community producers which have manufacturing facilities in the Community market. Consequently, the Commission made use of facts available, in accordance with Article 18 of the basic Regulation, whenever more precise information was not available from other interested parties.
- (52) Given the fact that data regarding sales and production was available from only one interested party, the applicant, it is considered appropriate not to disclose absolute figures. They have therefore been replaced by the symbol '—' and indexes were provided.

2. Consumption in the Community market

- (53) Apparent Community consumption of flint lighters was assessed on the basis of the volume of sales in the Community as provided by the Community industry, and imports from non-EU countries as reported by Eurostat. These figures do not include the sales of the non-cooperating EC producers.

Table 1 — Community consumption of flint lighters (000)

	2003	2004	2005	RIP
Units	529 550	575 394	661 378	727 715
Index	100	109	125	137
Y/Y trend		+ 9 %	+ 15 %	+ 10 %

Source: verified questionnaire replies and EU imports (Comext TARIC database)

- (54) Apparent Community consumption increased by 37 between 2003 and the RIP.

3. Volume, market share and prices of imports from the PRC and Taiwan.

3.1. Import volume and market share

- (55) During the period considered, the import volume of flint lighters from China and Taiwan although remaining at low levels increased by 136 % between 2003 and the RIP and reached more than 11 million units during the IP. This translated in a market share of 1,6 %. Market shares increased from 0,9 % in 2003 to 1,6 % during the RIP.

Table 2 — Imports of flint lighters from China and Taiwan and market share (000)

	2003	2004	2005	RIP
Import volume	4 949	7 902	15 452	11 657
Index	100	160	312	236
Market share	0,9 %	1,4 %	2,3 %	1,6 %
Unit price	0,22	0,14	0,13	0,14
Index	100	66	60	65

Source: verified questionnaire replies and EU imports (Comext TARIC database)

4. Imports from other countries

- (56) Imports from other countries went up from around 276 million pieces to around 487 million pieces. It should be noted however that there are indication that a substantial part of these imports, in fact, originate in the PRC and Taiwan.

Table 3 — Imports of flint lighters from other countries and market share (000)

	2003	2004	2005	RIP
Imports volume from Malaysia	60 596	57 717	65 729	47 162
Index	100	95	108	78
Market share	11,4 %	10,0 %	9,9 %	6,5 %
Unit price	0,04	0,04	0,04	0,04
Index	100	95	93	89
Imports volume from Indonesia	51 968	56 907	68 524	72 012
Index	100	110	132	139
Market share	9,8 %	9,9 %	10,4 %	9,9 %
Unit price	0,05	0,04	0,04	0,04
Index	100	76	75	81
Imports volume from Vietnam	106 117	156 938	191 498	237 529
Index	100	148	180	224

	2003	2004	2005	RIP
Market share	20,0 %	27,3 %	29,0 %	32,6 %
Unit price	0,05	0,04	0,04	0,04
Index	100	92	87	91
Imports volume from rest of the world	53 294	56 377	65 025	119 268
Index	100	106	122	224
Market share	10,1 %	9,8 %	9,8 %	16,4 %
Unit price	0,08	0,09	0,07	0,07
Index	100	101	81	83

5. Price evolution and price behaviour of the imports of the product concerned

- (57) As mentioned above in recital (12), in the absence of cooperation from the Chinese exporting producers, no verified information was available with regard to price levels of imports of flint lighters. Evidence of circumvention via Indonesia and Malaysia was recently found by OLAF and there is some evidence of circumvention via several other Asian countries (Laos, Thailand, Vietnam and the Philippines). It seems that assembly factories enabling the circumvention of measures can be set up in East Asia within a few weeks. The successful circumvention of measures may explain why none of the Chinese exporters cooperated in the present proceeding.
- (58) Thus, no definitive conclusion could be drawn with regard to the price evolution and price behaviour of the imports of the product concerned.

6. Economic situation of the Community industry

6.1. General comments

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

6.2. Production volume, production capacity and capacity utilisation

- (60) Total production of flint lighters by the Community industry increased steadily over the period considered, i.e. by 22 %.

Table 4 — Production volume

	2003	2004	2005	RIP
Production	—	—	—	—
Index	100	109	120	122
Y/Y trend		+ 9 %	+ 10 %	+ 1 %

Source: verified questionnaire reply

- (61) As production increased at a higher rate than the increase in production capacity, capacity utilisation also increased over the period considered. Overall, the capacity utilisation rate has followed similar trends as those of production, increasing between 2003 and the RIP by three percentage points.

Table 5 — Production capacity and capacity utilization

	2003	2004	2005	RIP
Production capacity	—	—	—	—
Index	100	109	114	118
Y/Y trend		+ 9 %	+ 4 %	+ 4 %
Capacity utilization	76 %	75 %	80 %	78 %
Index	100	100	105	103

Source: verified questionnaire reply

6.3. Stocks

- (62) Stocks remained stable during the period considered. The peak observed in the RIP is due to an intentional stock piling in view of the cessation of production activities during the summer period and should normalise after that period. This factor was therefore not considered meaningful in the determination of the injury picture.

Table 6 — Stock volume

	2003	2004	2005	RIP
Stock	—	—	—	—
Index	100	105	95	225
Y/Y trend		+ 5 %	– 10 %	137 %

Source: verified questionnaire reply

6.4. Sales volume, prices and market share

- (63) Sales volumes by the Community industry on the Community market decreased between 2003 and the RIP by 5 %, without, however, matching the expansion of the Community consumption, which substantially increased (by 37 %) during the same period. This increase in consumption means that the overall decrease of the Community industry's market share is of more than 14 percentage points (pp) over the period considered.

- (64) As far as average unit sales prices are concerned, they have slightly decreased between 2003 and the RIP with a decrease of 2 % between 2005 and the RIP.

Table 7 — Sales volume, prices and market share

	2003	2004	2005	RIP
Sales volume (units)	—	—	—	—
Index	100	95	101	95
Y/Y trend		– 5 %	+ 7 %	– 6 %
Avg. prices (EUR/unit)	—	—	—	—
Index	100	98	95	97
Y/Y trend		– 1 %	– 4 %	+ 3 %
Market share	47,7 %	41,6 %	38,6 %	33 %
Y/Y trend		– 6,1 pp	– 3 pp	– 5,6 pp

Source: verified questionnaire reply

6.5. Employment, productivity and wages

- (65) Over the period considered, employment increased by 5 %, i.e. at a lower pace than production in volume, which resulted in a significant increase of productivity (15 %). It should be noted that the increase in employment was the result of the hiring of new staff to be trained, in order to replace retiring staff.
- (66) Indeed, over the period considered the Community industry's labour costs (+ 7 %) only increased slightly. As a consequence, the proportion of labour costs in the total cost of production remained stable.

Table 8 — Employment, productivity and wages

	2003	2004	2005	RIP
Employment	816	856	856	859
Index	100	105	105	106
Y/Y trend		+ 5 %	0 %	+ 0 %
Productivity (units per employee)	—	—	—	—
Index	100	104	114	115
Y/Y trend		+ 4 %	+ 10 %	+ 1 %
Labour costs (000 EUR)	—	—	—	—
Index	100	99	104	107
Y/Y trend		– 1 %	+ 5 %	+ 2 %

Source: verified questionnaire reply

6.6. Profits

- (67) Profitability fell by 4,6 percentage points.

Table 9 — Profitability

	2003	2004	2005	RIP
Profitability (%)	—	—	—	—
Y/Y trend		– 0,2 pp	– 2,0 pp	– 2,4 pp

Source: verified questionnaire reply

6.7. Investments

- (68) Investments increased significantly between 2003 and the RIP i.e. by 60 %, and then substantially increased in 2005, by around 65 %, which was due to the Community industry's developing new production units. These investments related mainly to the reorganisation of the production from 2005 in order to restart production capacities. This increase, which was done with a limited increase in the workforce, has allowed the company to increase its productivity in terms of production per employee.

Table 10 — Investments

	2003	2004	2005	RIP
Investments	—	—	—	—
Index	100	111	165	160
Y/Y trend		11 %	49 %	– 3 %

Source: verified questionnaire reply

6.8. Ability to raise capital

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

6.9. Cash flow

- (70) Cash flow decreased significantly over the period considered (– 50 %). This negative trend indicates that the industry is under pressure. This development is in line with the development of the overall profitability during the period considered. It should be noted that during the RIP, cash flow represented only 1 % of the total sales made in the Community which cannot be considered as excessive.

Table 11 — Cash flow

	2003	2004	2005	RIP
Cash flow	—	—	—	—
Index	100	74	72	50
Y/Y trend		– 26 %	– 4 %	– 30 %

Source: Verified questionnaire reply

6.10. Growth

- (71) Between 2003 and the RIP, the Community consumption increased by 37 %, while the volume of sales of the Community industry on the Community market decreased by 7 %. The Community industry lost around 14,7 percentage points of market share, whereas imports originating in the Far East increased theirs.

- (72) In recent years, although it is true that the market share between flint and electronic (piezo) lighters has been characterized by a slow shift from Flint to Electronic, the investigation has shown that market for flint lighters is growing. The investigation revealed that flint lighters still represents about 70 % of the Community market and continues to grow, given the overall increase of the Community consumption. However, the Community industry was not able to benefit from the growth in the market, as revealed by its loss of market share.

6.11. Magnitude of the dumping margin

- (73) The analysis with regard to the magnitude of dumping must take into account the fact that there are measures in force in order to eliminate injurious dumping. As determined above in recital (32), the information available indicates that the Chinese exporting producers continue to sell to the Community at dumped prices. In accordance with Article 2(11) of the basic Regulation, the weighted average normal value established for the analogue country was compared with the weighted average export price. This comparison showed the existence of significant dumping, the dumping margin amounting to more than 150 %.
- (74) In light of the above, i.e. the high dumping margin, the huge capacity available in China and the circumvention practices, as evidenced by OLAF and the complainant, it can be concluded that dumped imports from China would with all likelihood increase considerably should measures be allowed to lapse.

6.12. Recovery from the effects of past dumping

- (75) The situation of the Community industry did not improve during the period considered, since the extension of measures in 2001 through the previous expiry review. While noting that the Community industry was profitable throughout the period considered, profits fell continuously during that period. Likewise, while the industry maintained a rather high level of market share, this was continuously declining during the period considered. However, pressure from the Chinese imports remains (due to circumvention) and the indicators set out above also show that the Community industry is still fragile and vulnerable.

6.13. Export activity of the Community industry

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

Table 12 — Community industry exports

	2003	2004	2005	RIP
Volume (unit)	—	—	—	—
Index	100	113	129	135
Y/Y trend		+ 13 %	+ 14 %	+ 5 %
Value (000' EUR)	—	—	—	—
Index	100	107	134	147
Y/Y trend		+ 7 %	+ 25 %	+ 10 %
Average price (EUR/unit)	—	—	—	—
Index	100	95	104	109
Y/Y trend		– 5 %	+ 9 %	+ 5 %

Source: verified questionnaire reply

- (77) Quantities exported by the Community industry grew significantly from 2003 to the RIP. This overall positive trend was concomitant to a slight increase in average prices, explained by a better competitive position in third country markets such as the US.

7. Conclusion on the situation of the Community industry

- (78) Sales volume decreased by 5 % between 2003 and the RIP which translated in a loss of market share from 47,7 % in 2003 to 33 % in the RIP. Unit prices decreased slightly from 2003 to the RIP, i.e. by 3 %, although raw material prices increased. The Community industry's profitability fell during the RIP. Production, production capacity and capacity utilisation rate increased which is, however, mainly due to the increase in export activities of the Community industry. Historically, the sector has always shown very high profitability level which is needed to recoup investments necessary to adapt the production to new security requirements and improve the overall competitiveness of the company. It is to be noted that the injury margin calculated for the RIP was over 60 %. Imports from the PRC and Taiwan were undercutting the Community industry prices by an average of 39 %.

- (79) Annual investments in the like product developed positively during the period considered i.e. increased by 60 %. These investments related mainly to the reorganization of the production from 2005 in order to restart production capacities. Employment increased by 5 %. Cash flow followed the same trend as profit during the RIP and decreased by 50 %.

- (80) Recitals (69) and (70) above show that the main injury factors (sales prices, sales volume, market share and profitability) decreased during the period considered and that the Community industry still suffered injury despite the measures in force. The injury is mainly translated in a loss of market share despite increasing consumption, but also in a decrease in profitability due to the price pressure from imports from the PRC and Taiwan. Thus, the increase of raw material costs could not be translated in higher selling prices.

- (81) Historically, the sector has always shown very high profitability levels. In the original investigation, for the purpose of establishing the injury elimination level, it was considered that any measure should allow the

Community industry to cover its costs of production and to achieve a reasonable profit, namely 15 % on sales turnover. This percentage is needed to recoup investments necessary to adapt the production to new security requirements and improve the overall competitiveness of the company.

- (82) The somewhat negative situation of the Community industry, despite the measures in place, can be explained by the high degree of circumvention which characterises the sector, as found by OLAF.

- (83) The importers contested the findings of the Commission concerning the economic situation of the Community industry. The figures submitted to substantiate their claim did however not relate to the situation of the Community industry in Europe as far as gas-fuelled, non-refillable pocket flint lighters are concerned but to the worldwide activities of the Community producer's entire lighter division. These data were irrelevant in the determination of the Community industry's state and the argument had therefore to be rejected.

- (84) The importers claimed that the Community producer had shifted a significant part of its Community production from flint to piezo lighters. As a consequence, its market share for flint lighters showed a decreasing trend. The investigation revealed that this statement is incorrect. Indeed, the overall Community lighter market has been increasing over the last years and the share of flint lighters in the lighter market has been slightly decreasing but remained at a level of 70 % in 2006. In this perspective, it should be reminded that the flint market consumption increased over the period considered and that the share of flint lighters sold by the Community industry decreased over the period considered. The arguments put forward are therefore rejected.

- (85) The importers argued that the Community producer holds a monopoly in the Community and anti-dumping measures would enforce its position even further. This statement is incorrect as significant import volumes from third countries are entering the Community market. Furthermore, the complainant Community producer was also competing with other producers in the Community. Additionally, it should be noted that no evidence was submitted or was otherwise available indicating that the Community industry abused any alleged dominant position.

- (86) The overall positive economic situation of the complainant is partially explained by its ability to sell the product concerned, produced in the US and in the EU, at a higher unit price in the US market as the higher safety standard and the presence of a child proof device (the guard) on the product concerned allows the complainant to sell the product concerned at a higher price. Finally, it should be noted that flint lighters are massively represented in the US market and the relative growth of the lighter market, despite a constant reduction in the number of smokers, shows that the Community industry has been able to generate growth margins in a very competitive market.

F. LIKELIHOOD OF RECURRENCE OF INJURY

- (87) Although continuation of material injury, caused by fraudulent declaration of the product concerned and by circumvention of the product concerned originating in the PRC via other Asian countries, is supported by the findings of OLAF (see recital (33)), the analysis focused on the likelihood of recurrence of injury. In this respect two main parameters were analysed: (1) possible shift of export volumes of the product concerned from the US in the Community market, (2) the effects of those projected volumes and prices from the country concerned on the Community industry.

1. Shift of export volumes from the US to the Community market

- (88) The decrease in market share of the Chinese lighters in the US shows that important volumes could be transferred to the EU market at a very low price. Moreover, as mentioned above in recital (37) there are large production capacities of the product concerned available in the PRC which could be shifted to the EU. It is very likely that, should measures be repealed, imports originating in the PRC would probably be favoured with the perspective of higher price levels than in developing countries.

2. Effects of these imports in the Community

- (89) Should measures be allowed to lapse, it is clear that, given the lower price and existing capacities of Chinese exporting producers, most injury indicators (mainly sales volume, cost of production and profitability) of the Community industry would go down significantly.

3. Conclusion on the likelihood of recurrence of injury

- (90) In view of the above and given that the injury margin calculated for the RIP was over 60 % and that imports from the PRC and Taiwan were undercutting the

Community industry prices by an average of 39 % it is concluded that the repeal of the measures would in all likelihood result in the recurrence of material injury to the Community industry.

- (91) One of the non-complainant Community producers contested above conclusions by alleging that since low priced lighters are imported from various other sources, the repeal of the current measures would not have any effect on the actual situation of the Community industry. It was argued that if any injury at all, it is already existent caused by the imports from these other sources. However, this Community producer did not contest the availability of significant spare capacities in China and the incentive of the Chinese exporting producers to shift their exports to the Community market. Likewise, it did not submit any information or evidence showing a link between the imports of lighters from other third countries and the impact on the Community industry's financial situation. None of the arguments brought forward could therefore devalue the conclusions as outlined above in recitals (87) to (90). This claim was therefore rejected.

G. COMMUNITY INTEREST

1. Introduction

- (92) In accordance with Article 21 of the basic Regulation it was examined whether a prolongation of the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of Community interest was based on the consideration of all the various interests involved, i.e. those of the Community industry and other Community producers and the importers of the product under consideration.
- (93) It should be recalled that, in the previous investigations, the adoption of measures and their subsequent extension was consistently found not to be against the interest of the Community.

- (94) On this basis it was examined whether, despite the conclusion that there exists a likelihood of recurrence of dumping and recurrence of injury, there are compelling reasons which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.

2. Interests of the Community industry

- (95) If the anti-dumping measures were repealed, dumped and low-priced imports on the Community market would massively increase and would accelerate the deterioration of the situation of the Community industry.

- (96) The Community industry is structurally viable, as shown by its positive result in non-EU markets, such as the US. It has continuously made investments, which have been possible thanks to its high profitability. However, it can be concluded that, without the continuation of anti-dumping measures, its situation will most likely deteriorate.

3. Interests of the other Community producers

- (97) One of the Community producers who did not submit a questionnaire reply claimed that the anti-dumping measures currently in force are detrimental to the European consumer. In particular, this producer claimed that price levels in the Community are higher in comparison to other third markets due to the existing measures. Moreover, this producer, who has relocated part of its production to the PRC, claimed that since the existing measures are also applicable to its exports of the product concerned manufactured in China to the Community, these measures would be damaging the interests of this company and by definition would therefore be against the Community interest.

- (98) This producer also argued that, since the Community industry had not recovered, the existing measures were inefficient and should not be renewed. Finally, it was claimed that any injury was due the fact that the Community industry did not adapt to the new global market.

- (99) As regards the alleged negative impact of the measures for consumers, the Community producer concerned did not submit any evidence supporting this claim.

- (100) This producer claimed that the anti-dumping measures constitute an obstacle to the development of its activities in China and have a negative impact on its expansion in the Far East, as well as a knock-on effect on its European production sites. This producer argued that the existing measure was negatively impacting on its overall profitability. However, the company indicated that it had recently increased its production in its EU facilities and continued to seek synergies with its production facilities in the Far East in order to broaden its product scope. Therefore, the alleged negative impact of the measures on its production facilities in the EU could not be verified.

- (101) The Community producer in question denied that it relocated its production and claimed instead that it simply built additional production lines in China

producing different product types than in the Community, thus enlarging its product range. This allegedly favoured the production in the Community which increased. As already mentioned this producer did not submit any questionnaire reply and did thus not sufficiently cooperate in the present proceeding. None of the information submitted, partly outside the requested deadlines, could therefore be verified. Furthermore, the producer did not explain or show any link between the built-up of the production in China and the increase in production in the Community as claimed. No such link was apparent on the basis of the information included in the file. It could also not explain how these facts would have an impact on the conclusions outlined in recital (100) above or devalue these conclusions. This argument had therefore to be rejected.

- (102) Likewise, this company's imports should not be allowed to benefit from dumping at the expense of the Community industry. In any case, it should be noted that the remaining production site of this producer in the Community only produces the product concerned. New smaller flint lighters, which are also subject to the existing measure, are produced in China and India.

- (103) With regard to the interests of the other Community producers, both came forward and objected to the existing measures and their continuation. However, they could not substantiate their objections with any evidence of the measures having a detrimental effect on them.

- (104) On the basis of the above, it was concluded that the measures in force would not have a significant, negative impact on the other Community producers and would not significantly adversely affect their financial interests.

4. Interests of importers and traders

- (105) On behalf of its members, an importers association (the European Lighters Importers' Association (ELIAS)) and Polyconcept, another importer opposed the maintenance of the existing measures.

- (106) It should be noted that none of the individual importers filled out a questionnaire reply on the basis that they did not import the product concerned. Therefore there was no evidence available to calculate the precise impact of the measures on the importers.

(107) ELIAS and Polyconcept gave some reasons as to why existing measures should be lapsed. As regard to their comments regarding the absence of injury and the economic performance of the applicant, it has been concluded that, without the continuation of anti-dumping measures, its situation will most likely deteriorate.

(108) ELIAS and Polyconcept argued that EU market demand has moved from flint to electronic (piezo) lighters and will continue to do so in the future. Although there is a growing trend amongst the consumers to use electronic (piezo) lighters, flint lighters still represent about 70 % of the market. The consumption of flint lighters has indeed been increasing (as mentioned in recital (53) above, which shows the growth in the market, whereas the Community industry could not benefit from this growth, since it has not only lost sales, but also market share in the flint lighter market.

(109) ELIAS and Polyconcept claimed that one of the reasons of alleged weak performance was the failure by the applicant to recognise changes in EU market demand. However, the Community industry is already producing electronic (piezo) lighters and is therefore in the position to meet any new demand for electronic (piezo) lighters.

(110) Likewise, the reduction in smoking is also a trend in the US, whereas the Community industry has managed to increase its market share on what can be considered as a highly competitive market given the presence of many other producers, whether originating in the Far East or the EU. As far as production costs are concerned, the example of the US shows that the Community industry is able to compete with other Community producers having relocated their activities in Asian countries.

5. Interest of consumers

(111) Consumers or consumer organisation did not come forward during the present investigation.

(112) However, it was considered that the impact of the measures, for the reasons set out above, would not have a significant impact on the selling price to the final customer.

6. Conclusion on Community interest

(113) Based on the above it is concluded that there are no compelling reasons on grounds of Community interest

against the maintenance of the existing anti-dumping measures.

H. ANTI-DUMPING MEASURES

(114) All interested parties were informed of the essential facts and considerations on the basis of which it is intended to recommend that the existing measures be maintained. They were also granted a period to make representations subsequent to this disclosure. No evidence was put forward showing that the extension by Regulation (EC) No 192/1999 should be discontinued.

(115) It follows from the above that, as provided for under Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of gas-fuelled, non-refillable pocket flint lighters, and to certain refillable lighters, originating in China or consigned from or originating in Taiwan, imposed by Regulation (EEC) No 3433/91 as amended by Regulation (EC) No 1006/95 and as extended by Regulation (EC) No 192/1999 and Regulation (EC) No 1824/2001 should be maintained,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of gas-fuelled, non-refillable pocket flint lighters falling within CN code ex 9613 10 00 (TARIC code 9613 10 00 19) originating in the People's Republic of China.

2. The rate of the duty, applicable to the net, free-at-the Community frontier price, before duty, shall be set at EUR 0,065 per lighter.

Article 2

1. The anti-dumping duty mentioned in Article 1 is hereby extended on imports of gas-fuelled, non-refillable pocket flint lighters falling within CN code ex 9613 10 00 consigned from Taiwan, whether declared as originating in Taiwan or not (TARIC code 9613 10 00 11) and to imports of gas-fuelled, refillable pocket flint lighters, incorporating a plastic tank body, falling within CN code ex 9613 20 90 (TARIC code 9613 20 90 29), originating in the People's Republic of China or consigned from Taiwan, whether declared as originating in Taiwan or not (TARIC code 9613 20 90 21).

2. Gas-fuelled, refillable pocket flint lighters, incorporating a plastic tank body, with aco-operated free-at-Community-frontier, duty unpaid, value per piece equal to or greater than EUR 0,15, shall not be subject to the duty extended by paragraph 1, if such a price is specified in an invoice issued by an exporter located in the People's Republic of China or Taiwan to an unrelated importer in the Community.

Article 3

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

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

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

Article 4

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

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

Done at Brussels, 10 December 2007.

For the Council
The President
L. AMADO

⁽¹⁾ OJ L 253, 11.10.1993, p. 1.

COUNCIL REGULATION (EC) No 1459/2007**of 10 December 2007****amending Regulation (EC) No 1858/2005 imposing a definitive anti-dumping duty on imports of steel ropes and cables originating, *inter alia*, in South Africa**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, and in particular Articles 8 and 9 thereof,

Having regard to the proposal from the Commission, submitted following the consultations with the Advisory Committee,

Whereas:

A. PREVIOUS INVESTIGATION AND EXISTING MEASURES

- (1) In August 1999, the Council, by Regulation (EC) No 1796/1999 ⁽²⁾, imposed a definitive anti-dumping duty on imports of steel ropes and cables originating, *inter alia*, in South Africa.
- (2) In November 2005, following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 1858/2005 ⁽³⁾, decided that the anti-dumping measures applicable to imports of the product concerned originating, *inter alia*, in South Africa should be maintained.
- (3) By Decision 1999/572/EC ⁽⁴⁾ the Commission accepted a price undertaking from a South African company, Scaw Metals Group Haggie Steel Wire Rope ('the company').
- (4) As a result, imports into the Community of the product concerned of South African origin, produced by the company, and of the product type covered by the undertaking (the 'product covered') were exempted from the definitive anti-dumping duties.

- (5) In this regard it should be noted that certain types of steel wire ropes and cables currently produced by the company were excluded from the scope of the undertaking. Accordingly, such steel wire ropes and cables were subject to the payment of the anti-dumping duty when entered into free circulation in the Community.

B. FAILURE TO COMPLY WITH THE UNDERTAKING

- (6) The undertaking offered by the company obliges it to, *inter alia*, export the product covered to the European Community above certain minimum prices (MIPs) as stated in the undertaking.
- (7) It was acknowledged by the company that, with regard to the exemption from the anti-dumping duties afforded by the undertaking, such exemption is conditional upon the presentation to the Community customs services of an 'undertaking invoice'. Moreover, the company undertook not to issue such undertaking invoices for sales of those types of product concerned which are not covered by the undertaking and which are therefore liable to the anti-dumping duty. The company also acknowledged that the undertaking invoices issued had to contain the information set out in the Annex of Regulation (EC) No 1858/2005.
- (8) The terms of the undertaking also oblige the company to provide the Commission with regular and detailed information, in the form of a quarterly report of its sales of the product concerned to the European Community. Such reports were to include the products covered by the undertaking which benefited from the exemption from the payment of the anti-dumping duty, as well as those types of steel ropes and cables which are not covered by the undertaking and which are therefore subject to the anti-dumping duty.
- (9) It is clear that the aforementioned sales reports should be, as submitted, complete, exhaustive and correct in all particulars and that the transactions fully comply with the terms of the undertaking.

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

⁽²⁾ OJ L 217, 17.8.1999, p. 1. Regulation as amended by Regulation (EC) No 1674/2003 (OJ L 238, 25.9.2003, p. 1).

⁽³⁾ OJ L 299, 16.11.2005, p. 1. Regulation as amended by Regulation (EC) No 121/2006 (OJ L 22, 26.1.2006, p. 1).

⁽⁴⁾ OJ L 217, 17.8.1999, p. 63. Decision as last amended by Decision 2006/38/EC (OJ L 22, 26.1.2006, p. 54).

- (10) For the purpose of ensuring compliance with the undertaking, the Company also undertook to allow on-the-spot verification visits at its premises in order to verify the accuracy and veracity of the data submitted in the said quarterly reports and to provide all information considered necessary by the Commission.

- (11) It should be noted that the company had already received a warning letter from the Commission services on 28 October 2003 for breaching the undertaking by issuing undertaking invoices for products not covered by the undertaking but otherwise being subject to the anti-dumping measures. The warning letter stated that in view of the particular circumstances under which these breaches took place it was not intended to withdraw the acceptance of the undertaking, but it was also pointed out that any subsequent infringement of the undertaking, even of a minor nature, would make it difficult for the Commission to maintain the acceptance of the undertaking from the company.
- (12) A verification visit was carried out on 5-6 February 2007 at the premises of the company in South Africa.
- (13) The verification visit to the company established that the company issued undertaking invoices for steel ropes and cables not covered by the undertaking but otherwise subject to the anti-dumping measures. It also established that the company failed to meet its obligation to respect the MIP on one occasion. Moreover, the company issued undertaking invoices not in conformity with the Annex

of Regulation (EC) No 1858/2005. Furthermore, during the verification visit, it was established that the quarterly undertaking sales reports as submitted by the company were not complete, exhaustive and correct in all particulars.

- (14) Commission Decision 2007/1459/EC ⁽¹⁾ sets out in more detail the nature of the breaches found,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(5), Article 2 and the Annex of Regulation (EC) No 1858/2005 shall be deleted, and Article 1(6) thereof shall be renumbered as Article 1(5), and also Article 3 thereof shall be renumbered as Article 2.

Article 2

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

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

Done at Brussels, 10 December 2007.

For the Council

The President

L. AMADO

⁽¹⁾ See page 18 of this Official Journal.

COMMISSION REGULATION (EC) No 1460/2007**of 11 December 2007****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 12 December 2007.

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

Done at Brussels, 11 December 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 756/2007 (OJ L 172, 30.6.2007, p. 41).

ANNEX

to Commission Regulation of 11 December 2007 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	168,9
	MA	86,5
	SY	68,2
	TR	115,4
	ZZ	109,8
0707 00 05	JO	209,9
	MA	52,5
	TR	108,1
	ZZ	123,5
0709 90 70	JO	149,8
	MA	58,8
	TR	110,5
	ZZ	106,4
0805 10 20	AR	17,5
	AU	10,4
	BR	25,6
	SZ	31,4
	TR	71,4
	ZA	39,1
	ZW	26,4
	ZZ	31,7
0805 20 10	MA	79,2
	ZZ	79,2
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	61,4
	HR	32,2
	IL	66,9
	TR	73,4
	ZZ	58,5
0805 50 10	EG	80,8
	IL	82,7
	TR	105,5
	ZA	65,9
	ZZ	83,7
0808 10 80	AR	79,2
	CA	93,7
	CL	86,0
	CN	116,6
	MK	30,6
	US	84,4
	ZA	82,4
	ZZ	81,8
0808 20 50	AR	71,4
	CN	45,8
	TR	145,7
	US	107,8
	ZZ	92,7

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1461/2007**of 11 December 2007****establishing a prohibition of fishing for Greenland halibut in NAFO waters 3LMNO by vessels flying the flag of Lithuania**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾, and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 41/2007 of 21 December 2006 fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required ⁽³⁾, lays down quotas for 2007.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2007.

- (3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2007 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

*Article 3***Entry into force**

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

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

Done at Brussels, 11 December 2007.

For the Commission

Fokion FOTIADIS

Director-General for Fisheries and Maritime Affairs

⁽¹⁾ OJ L 358, 31.12.2002, p. 59. Regulation as amended by Regulation (EC) No 865/2007 (OJ L 192, 24.7.2007, p. 1).

⁽²⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1967/2006 (OJ L 409, 30.12.2006, p. 11), as corrected by OJ L 36, 8.2.2007, p. 6.

⁽³⁾ OJ L 15, 20.1.2007, p. 1. Regulation as last amended by Commission Regulation (EC) No 898/2007 (OJ L 196, 28.7.2007, p. 22).

ANNEX

No	85
Member State	Lithuania
Stock	GHL/N3LMNO
Species	Greenland halibut (<i>Reinhardtius hippoglossoides</i>)
Zone	NAFO 3LMNO
Date	20.11.2007

COMMISSION REGULATION (EC) No 1462/2007**of 11 December 2007****amending Council Regulation (EC) No 872/2004 concerning further restrictive measures in relation to Liberia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 872/2004 concerning further restrictive measures in relation to Liberia ⁽¹⁾, and in particular Article 11(a) thereof,

Whereas:

- (1) Annex I to Regulation (EC) No 872/2004 lists the natural and legal persons, bodies and entities covered by the freezing of funds and economic resources under that Regulation.

- (2) On 28 November 2007, the Sanctions Committee of the United Nations Security Council decided to amend the list of persons, groups and entities to whom the freezing of funds and economic resources should apply. Annex I should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 872/2004 is hereby amended as set out in the Annex to this Regulation.

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

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

Done at Brussels, 11 December 2007.

For the Commission

Eneko LANDÁBURU

Director-General for External Relations

⁽¹⁾ OJ L 162, 30.4.2004, p. 32. Regulation as last amended by Council Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

ANNEX

Annex I to Council Regulation (EC) No 872/2004 is amended as follows:

The following natural person shall be removed:

Grace Beatrice Minor. Date of birth: 31.5.1942. Other information: Key advisor to former President Charles Taylor.

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 13 November 2007

repealing Decision 1999/572/EC accepting undertakings offered in connection with the anti-dumping proceedings concerning imports of steel wire ropes and cables originating in the People's Republic of China, Hungary, India, the Republic of Korea, Mexico, Poland, South Africa and Ukraine

(2007/814/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

concerned originating, *inter alia*, in South Africa should be maintained.

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⁾, and in particular Articles 8 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PREVIOUS INVESTIGATIONS AND EXISTING MEASURES

- (1) In August 1999, the Council, by Regulation (EC) No 1796/1999 ⁽²⁾, imposed a definitive anti-dumping duty on imports of steel ropes and cables originating, *inter alia*, in South Africa.
- (2) In November 2005, following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 1858/2005 ⁽³⁾ decided that the anti-dumping measures applicable to imports of the product

- (3) The Commission, by Decision 1999/572/EC of 13 August 1999 ⁽⁴⁾, accepted a price undertaking from a South African company, Scaw Metals Group Haggie Steel Wire Rope ('Haggie' or 'the company').

- (4) By Decision 1999/572/EC the Commission also accepted price undertakings from the following companies: Usha Martin Industries & Usha Beltron Ltd, India; Aceros Camesa SA de CV, Mexico; and Joint Stock Company Silur, Ukraine. The Commission withdrew the acceptance of the undertaking offered by Joint Stock Company Silur, Ukraine by Commission Regulation (EC) No 1678/2003 ⁽⁵⁾. The anti-dumping measures on steel wire ropes and cables originating in Mexico expired on 12 August 2004 ⁽⁶⁾. The Commission withdrew the acceptance of the undertaking offered by Usha Martin Industries & Usha Beltron Ltd by Commission Decision 2006/38/EC of 22 December 2005.

- (5) As a result imports into the Community of the product concerned of South African origin, produced by the company and of the product type covered by the undertaking (the product covered) were exempted from the definitive anti-dumping duties.

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

⁽²⁾ OJ L 217, 17.8.1999, p. 1. Regulation as amended by Regulation (EC) No 1674/2003 (OJ L 238, 25.9.2003, p. 1).

⁽³⁾ OJ L 299, 16.11.2005, p. 1. Regulation as amended by Regulation (EC) No 212/2006 (OJ L 22, 26.1.2006, p. 1).

⁽⁴⁾ OJ L 217, 17.8.1999, p. 63. Decision as last amended by Decision 2006/38/EC (OJ L 22, 26.1.2006, p. 54).

⁽⁵⁾ OJ L 238, 25.9.2003, p. 13.

⁽⁶⁾ OJ C 203, 11.8.2004, p. 4.

- (6) In this regard it should be noted that certain types of steel wire ropes and cables currently produced by Haggie were excluded from the scope of the undertaking. Accordingly, such steel wire ropes and cables were liable to the payment of the anti-dumping duty when entered into free circulation in the Community.

B. BREACHES OF THE UNDERTAKING

1. Obligations of the company under the undertaking

- (7) The undertaking offered by the company obliges it to, inter alia, export the product covered to the European Community above certain minimum prices (MIPs) as stated in the undertaking.
- (8) It was further acknowledged by the company in the undertaking that with regard to the exemption from the anti-dumping duties afforded by the undertaking, such exemption is conditional upon the presentation to the Community customs services of an 'undertaking invoice'. Moreover, the company undertook not to issue such undertaking invoices for sales of those types of product concerned which are not covered by the undertaking and which are therefore liable to the anti-dumping duty. The company also acknowledged that the undertaking invoices issued had to contain the information set out first in the Annex of Regulation (EC) No 1796/1999 and later in the Annex of Regulation (EC) No 1858/2005.
- (9) The terms of the undertaking also oblige the company to provide the Commission with regular and detailed information, in the form of a quarterly report of its sales of the product concerned to the European Community. Such reports should include the products covered by the undertaking which benefited from the exemption from the payment of the anti-dumping duty, as well as those types of steel ropes and cables which are not covered by the undertaking and which are therefore liable to the payment of the anti-dumping duty upon importation into the European Community.
- (10) It is clear that the aforementioned sales reports should be, as submitted, complete, exhaustive and correct in all particulars and that the transactions fully comply with the terms of the undertaking.
- (11) For the purpose of ensuring compliance with the undertaking, the Company also undertook to allow on-spot verification visits at its premises in order to verify the accuracy and veracity of data submitted in the said quarterly reports and to provide all information considered necessary by the Commission.

- (12) It should be noted that the company already received a warning letter from the Commission Services on 28 October 2003 for breaching the undertaking by issuing undertaking invoices for products not covered by the undertaking but otherwise being subject to the anti-dumping measures. The warning letter stated that in view of the particular circumstances under which these breaches took place it was not intended to withdraw the acceptance of the undertaking, but it was also pointed out that any subsequent infringement of the undertaking, even of a minor nature, would make it difficult for the Commission to maintain the acceptance of the undertaking from the company.

- (13) In this regard, a verification visit was carried out at the premises of the Company in South Africa from 5 February 2007 until 6 February 2007. The verification visit covered the period from 1 January 2004 until 31 December 2006.

2. Results of the verification visit to the Company

- (14) The verification visit established that the company, on two occasions, issued undertaking invoices (undertaking invoice numbers: 935515 and 935516) for the products subject to the anti-dumping measure but not covered by the undertaking. Therefore, these transactions unlawfully benefited from the exemption from the payment of the anti-dumping duty upon importation.
- (15) The verification visit established that, on one occasion, the company failed to adjust the unit sales price according to the terms of payment. The failure to make this adjustment for the financial cost linked to the actual time of the payment has led to a unit sale price below the applicable MIP.
- (16) Furthermore, the verification visit established that, on several occasions, the company issued undertaking invoices not in conformity with the Annex of Regulation (EC) No 1858/2005 by including the sentence 'For sale offshore, not to be sold within the European Union'.
- (17) Examination of the undertaking invoices issued for the time period concerned by the verification visit showed that one transaction was not included in the quarterly undertaking sales report submitted to the Commission. Furthermore, it was also established that the company reported transactions not intended for release into free circulation in the Community as if they were intended to be released into free circulation in the Community. The verification visit also identified several transactions which were reported as transit sales, but, in reality, the goods were released into free circulation in the Community. Moreover discrepancies were found between the quarterly undertaking sales reports and the corresponding invoices.

3. Reasons to withdraw acceptance of the undertaking

- (18) The fact that the company issued undertaking invoices for product concerned which were not covered by the undertaking and the fact that these transactions benefited from the exemption from the payment of the anti-dumping duty only granted for the products covered by the undertaking constitute breaches of the undertaking.
- (19) The obligation of the company to respect the MIP for all sales of the product covered was not met.
- (20) Issuing undertaking invoices not in conformity with the Annex of Regulation (EC) No 1858/2005 for sales of product covered can be confusing for the customs authorities and no longer allow the customs authorities to effectively monitor the undertaking and, therefore, render the undertaking impractical.
- (21) The facts set out in recital (17) have led to the conclusion that the quarterly undertaking sales reports as submitted by the company were not complete, exhaustive and correct in all particulars and therefore these reports were not sufficiently reliable to be used for monitoring the undertaking. Non-compliance with reporting requirements also constitutes a breach of the undertaking.

4. Written submissions and hearing

(a) Lack of understanding of the Undertaking

- (22) The company acknowledged by its written submission that errors occurred when issuing undertaking invoices and preparing the undertaking reports due to a lack of understanding of the technical provisions of the undertaking, of incorrect reading of the text and/or the company's failure to consult it. It was also stated in its written submission and during the hearing on 26 April 2007 that changes in the senior management and the restructuring of the organization contributed to lack of understanding of the complex requirements of the undertaking.
- (23) The company also admitted the receipt of the warning letter from the Commission Services on the 28 October 2003. However, the company argued that it never received a verification report which it assumed would have outlined the actual error made. The company argued that the fact that it was not made aware of the actual errors also contributed to its failure to change its practices concerning the preparation of undertaking reports or improve its understanding.
- (24) In respond to these arguments it has to be noted that the company on 18 September 2003 received a letter from the Commission which set out in detail the breaches

identified. The warning letter of 28 October 2003 did not repeat the breaches in detail any longer but referred to the earlier correspondence between the Commission and the company.

- (25) It also should be noted that the company might have been confused when it referred to a verification report. The Commission did not carry out a verification visit prior to issuing the warning letter on 28 October 2003 as the breaches which led to issuance of the warning letter were established on the basis of desk analysis of the undertaking reports. The Commission did carry out a verification in May 2004 but since that verification did not lead to further action no letter relating to it needed to be sent the company.
- (26) Moreover, the company submitted during the hearing that, after the verification visit, the company revisited its complete system, based on the comments made on the spot, in order to accommodate the necessary changes to meet the requirements of the undertaking.
- (27) The arguments presented by the company in its defence regarding its lack of understanding of the undertaking do not alter the Commission's view that the company failed to comply with the obligations of the undertaking. It also has to be noted that the company already received a warning letter for breaching the undertaking in the past and it failed to adopt the measures necessary to prevent that new breaches of the undertaking would occur. The lack of understanding of the requirements of the undertaking constitutes a high risk for the sufficiency and reliability of the monitoring of the undertaking.

(b) Proportionality

- (28) With regard to the price violation, the company admitted that a price violation occurred on one occasion because it failed to do the necessary adjustments in the sales price in respect of late payment. However, it was argued that the sales prices of all other transactions were strictly in compliance with the MIP. Moreover, it was submitted that the late payment occurred due to unforeseen circumstances as the client concerned normally pre-pays for goods prior to shipment taking place.
- (29) In response to these arguments it should be pointed out that in accordance with the undertaking, the company undertook to ensure that the Net Sales Price of all sales covered by the undertaking shall be at or above the MIPs set out in the undertaking.
- (30) Moreover, regarding the issue of proportionality, the basic Regulation contains no direct or indirect requirement that a breach of an undertaking must relate to a minimum percentage of sales or must relate to a minimum percentage of the MIP.

(31) This approach has also been confirmed by the jurisprudence of the Court of First Instance which has ruled that any breach of an undertaking is sufficient to justify the withdrawal of acceptance of an undertaking ⁽¹⁾.

(32) Accordingly, the arguments presented by the company with regard to proportionality do not alter the Commission's view that a breach of the undertaking occurred and that the acceptance of the undertaking should be withdrawn.

(c) Good faith of the company

(33) The company argued that at the time of submitting their regular reports to the Commission, the company felt that the reports were complete, exhaustive and correct in all particulars.

(34) At no time did the company try to report incorrect information or attempt to withhold any information requested.

(35) The company also emphasised both in its written submission and during the hearing, that it did not derive any benefit from the breaches of the undertaking, in any but two cases, and that the errors were not carried out within the scope of a circumvention scheme.

(36) Referring to the recitals above it must be noted that the company was not seen to be purposely trying to benefit from not respecting the requirements of the undertaking

or by impeding the monitoring. However, the repeated occurrence of the errors renders the proper monitoring of the undertaking impractical.

C. REPEAL OF DECISION 1999/572/EC

(37) In view of the above, the acceptance of the undertaking should be withdrawn and Commission Decision 1999/572/EC should be repealed. Accordingly, the definitive antidumping duty imposed by Article 1(2) of Regulation (EC) No 1858/2005 should apply,

HAS DECIDED:

Article 1

Decision 1999/572/EC is hereby repealed.

Article 2

This Decision shall take effect on the day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 13 November 2007.

For the Commission

Peter MANDELSON

Member of the Commission

⁽¹⁾ In this context, see case T-51/96 *Miwon v Council* (ECR 2000, p. II-1841) paragraph 52; case T-340/99 *Arne Mathisen S v Council* (ECR 2002, p. II-2905) paragraph 80.

COMMISSION DECISION

of 29 November 2007

implementing Decision No 573/2007/EC of the European Parliament and of the Council as regards the adoption of the strategic guidelines 2008 to 2013*(notified under document number C(2007) 5738)***(Only the Bulgarian, Czech, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish texts are authentic)**

(2007/815/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 573/2007/EC of the European Parliament and the Council of 23 May 2007 establishing a European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' and repealing Council Decision 2004/904/EC ⁽¹⁾, and in particular Article 17 thereof,

Whereas:

- (1) The Commission should lay down strategic guidelines setting out a framework for the intervention of the Fund relating to the multi-annual programming period 2008 to 2013.
- (2) The guidelines should define the priorities and, in accordance with Article 14(4) of the Decision No 573/2007/EC, the specific priorities which allow the Member States not covered by the Cohesion Fund to have the co-financing of the Community contribution increased to 75 % for projects co-financed by the Fund.
- (3) In accordance with Article 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not bound by this Decision or subject to its application.
- (4) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Ireland has notified, by letter of 6 September 2005, its wish to take part in the adoption and application of Decision No 573/2007/EC.
- (5) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty

establishing the European Community, the United Kingdom has notified, by letter of 27 October 2005, its wish to take part in the adoption and application of Decision No 573/2007/EC.

- (6) The measures provided for in this Decision are in accordance with the opinion of the common Committee 'Solidarity and Management of Migration Flows' established by Article 56 of Decision No 574/2007/EC of the European Parliament and of the Council establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' ⁽²⁾,

HAS ADOPTED THIS DECISION:

Article 1

The guidelines setting out the priorities and specific priorities for the multi-annual programming for the period 2008 to 2013 shall be as defined in the Annex.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand-Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 29 November 2007.

For the Commission
Franco FRATTINI
Vice-President

⁽¹⁾ OJ L 144, 6.6.2007, p. 1.⁽²⁾ OJ L 144, 6.6.2007, p. 22.

ANNEX

The strategic guidelines set out below are to be seen in the context of the development of a more efficient management of migration flows at all their stages, initiated by the Tampere European Council in 1999.

For each of the objectives of the Fund set out in Article 3(1) of Decision No 573/2007/EC, the guidelines shall in particular give effect to the priorities of the Community with a view to promoting the implementation of the Common European Asylum System (hereinafter CEAS).

The ultimate objective of the CEAS is to establish a level playing field, by way of a system which guarantees persons genuinely in need of protection access to a high level of protection under equivalent conditions in all Member States while at the same time dealing fairly and efficiently with those found not to be in need of protection.

In this context, the European Refugee Fund (hereinafter the Fund) provides a supporting instrument for Member States' efforts to implement EU asylum policy. More specifically, its funding can complement, stimulate and act as a catalyst for the delivery of the objectives pursued, reduce disparities and raise standards.

When preparing their draft multi-annual programmes, Member States should target the available resources under the Fund to at least the first two priorities listed below, while the third priority is optional.

PRIORITY 1: Implementation of the principles and measures set out in the Community *acquis* in the field of asylum, including those related to integration objectives.

This should help to ensure appropriate reception conditions, fair and effective procedures and the full and inclusive application of the Geneva Convention for the target groups defined in the Fund as per the following Community instruments:

- (a) Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (the Dublin Regulation) ⁽¹⁾;
- (b) Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention (the Eurodac Regulation) ⁽²⁾;
- (c) Council Regulation (EC) No 407/2002 of 28 February 2002 laying down certain rules to implement Regulation (EC) No 2725/2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention ⁽³⁾;
- (d) Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (the Temporary Protection Directive) ⁽⁴⁾;
- (e) Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (the Reception Conditions Directive) ⁽⁵⁾;
- (f) Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification ⁽⁶⁾, as far as provisions related to refugees are concerned;
- (g) Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (the Qualification Directive) ⁽⁷⁾;

⁽¹⁾ OJ L 50, 25.2.2003, p. 1.

⁽²⁾ OJ L 316, 15.12.2000, p. 1.

⁽³⁾ OJ L 62, 5.3.2002, p. 1.

⁽⁴⁾ OJ L 212, 7.8.2001, p. 12.

⁽⁵⁾ OJ L 31, 6.2.2003, p. 18.

⁽⁶⁾ OJ L 251, 3.10.2003, p. 12.

⁽⁷⁾ OJ L 304, 30.9.2004, p. 12.

- (h) Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (the Procedures Directive) ⁽¹⁾.

Within this priority, the Community contribution may be increased to 75 % for projects addressing the following **specific priorities**:

1. actions aimed at taking into account the special needs of vulnerable people, notably unaccompanied minors, and more specifically measures aimed at improving the definitions and procedures applied by Member States to identify the more vulnerable asylum seekers and to provide an appropriate response to such needs;
2. actions improving the identification of persons in need of international protection and/or the processing of their applications at the borders, notably by the development of specific training programmes.

PRIORITY 2: Development of reference tools and evaluation methodologies to assess and improve the quality of procedures for the examination of claims for international protection and to underpin administrative structures in an effort to respond to the challenges brought forward by enhanced practical cooperation with other Member States.

Within this priority, the Community contribution may be increased to 75 % for projects addressing the following **specific priorities**:

1. measures designed to carry out an independent review on how the national asylum system works and how to make it more efficient;
2. development of tools aimed to enhance consistency in national decision making on the application of the *acquis*, such as case-law databases accessible to all relevant stakeholders;
3. measures designed to increase the capacity of national asylum services to cooperate with the asylum services of other Member States, and in particular to compile, analyse and assess information on countries or regions of origin for the purpose of sharing this information with other Member States.

PRIORITY 3: Actions helping to enhance responsibility sharing between Member States and third countries (optional).

This includes in particular support for the voluntary efforts of Member States regarding the transfer of third-country nationals or stateless persons from a third country to a Member State where they are permitted to reside with refugee status or a status which offers the same rights and benefits under national and Community law as refugee status, and the transfer of asylum seekers or beneficiaries of international protection between Member States.

Within this priority, the Community contribution may be increased to 75 % for projects addressing the following **specific priorities**:

1. actions relating to the resettlement of persons from a country or region designated for the implementation of a Regional Protection Programme;
2. actions aimed at transferring asylum seekers or beneficiaries of international protection from Member States facing particular pressures on their asylum systems.

⁽¹⁾ OJ L 326, 13.12.2005, p. 13.

COMMISSION DECISION

of 10 December 2007

amending Decision 2006/415/EC concerning certain protection measures in relation to highly pathogenic avian influenza of the subtype H5N1 in poultry in Poland*(notified under document number C(2007) 6359)***(Text with EEA relevance)**

(2007/816/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾, and in particular Article 9(3) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽²⁾, and in particular Article 10(3) thereof,

Whereas:

- (1) Commission Decision 2006/415/EC of 14 June 2006 concerning certain protection measures in relation to highly pathogenic avian influenza of the subtype H5N1 in poultry in the Community and repealing Decision 2006/135/EC ⁽³⁾ lays down certain protection measures to be applied in order to prevent the spread of that disease, including the establishment of areas A and B following a suspected or confirmed outbreak of the disease.
- (2) Following outbreaks of highly pathogenic avian influenza of H5N1 subtype in the United Kingdom, Romania and Poland, Decision 2006/415/EC was last amended by Decision 2007/785/EC of 3 December 2007 amending Decision 2006/415/EC concerning certain protection measures in relation to highly pathogenic avian

influenza of the subtype H5N1 in poultry in those Member States.

- (3) As a further outbreak of the disease has occurred in Poland outside the restricted area, the delineation of the area under restriction and the duration of the measures should be modified to take account of the epidemiological situation.
- (4) Decision 2006/415/EC should therefore be amended accordingly.
- (5) The measures provided for in this Decision should be reviewed at the next meeting of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2006/415/EC is amended in accordance with the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 10 December 2007.

For the Commission

Markos KYPRIANOU

Member of the Commission

⁽¹⁾ OJ L 395, 30.12.1989, p. 13. Directive as last amended by Directive 2004/41/EC of the European Parliament and of the Council (OJ L 157, 30.4.2004, p. 33), as corrected by OJ L 195, 2.6.2004, p. 12.

⁽²⁾ OJ L 224, 18.8.1990, p. 29. Directive as last amended by Directive 2002/33/EC of the European Parliament and of the Council (OJ L 315, 19.11.2002, p. 14).

⁽³⁾ OJ L 164, 16.6.2006, p. 51. Decision as last amended by Decision 2007/785/EC (OJ L 316, 4.12.2007, p. 62).

ANNEX

The Annex to Decision 2006/415/EC is amended as follows:

1. The following text replaces the entry for Poland in Part A:

ISO Country Code	Member State	Area A		Date until applicable Article 4(4)(b)(iii)
		Code (if available)	Name	
PL	POLAND	MAZOWIECKIE VOIVODSHIP 01400 PŁOCKI 01419	Protection zone: Municipality of Brudzeń Duży: Główina Gorzechówko Gorzechowo Myśliborzyce Rembielin Rokicie Siecień Siecień Rumunki Strupczewo Duże Uniejewo Więclawice Municipality of Nowy Duninów: Karolewo Nowa Wieś Nowy Duninów	9.1.2008
		MAZOWIECKIE VOIVODSHIP 01400 ŻUROMIŃSKI 01437	Protection zone: Municipality of Biežuń: Biežuń Dźwierzno Karniszyn Karniszyn Parcele Kobyła Łąka Kocewo Myślin Sadłowo Sadłowo Parcele Strzeszewo	
		KUJAWSKO- POMORSKIE VOIVODSHIP 00400 WŁOCŁAWSKI 00418	Protection zone: Municipality of Włocławek: Skoki Duże Skoki Małe	
		MAZOWIECKIE VOIVODSHIP 01400 PŁOCKI 01419	Surveillance zone: Municipality of Brudzeń Duży: Bądkowo Bądkowo Jeziorne Bądkowo Kościelne Bądkowo Podlasie Bądkowo Rochny Biskupice Brudzeń Duży	

ISO Country Code	Member State	Area A		Date until applicable Article 4(4)(b)(iii)
		Code (if available)	Name	
			Brudzeń Mały Cegielnia Cierszewo Izabelin Janoszyce Karwosieki Cholewice Kłobukowo Krzyżanowo Lasotki Murzynowo Noskowice Parzeń Parzeń Janówek Patrze Radotki Robertowo Sikórz Sobowo Suchodół Turza Mała Turza Wielka Wincentowo Winnica Zdziębórz Żerniki Municipality of Stara Biała: Brwilno Górne Kobierniki Kowalewko Ludwikowo Mańkowo Maszewo Duże Srebrna Ulaszewo Wyszyna Municipality of Nowy Duninów: Brwilno Dolne Brzezinna Góra Duninów Duży Grodziska Jeżowo Kamion Kobyła Góra Środoń Stary Duninów	

ISO Country Code	Member State	Area A		Date until applicable Article 4(4)(b)(iii)
		Code (if available)	Name	
			Studzianka Wola Brwileńska	
		MAZOWIECKIE VOIVODSHIP 01400 SIERPECKI 01427	Surveillance zone: Municipality of Mochowo: Będorzyn Grodnia Łukoszyn Łukoszyno Biki Municipality of Rościszewo: Lipniki Ostrów Polik Rzeszotary Nowe Rzeszotary Zawady Września Municipality of Zawidz: Jaworowo Kolonia Jaworowo Kłódź Jaworowo Lipa Jaworowo Próchniatka	
		MAZOWIECKIE VOIVODSHIP 01400 ŻUROMIŃSKI 01437	Surveillance zone: Municipality of Biezuń: Adamowo Bielawy Gołuskie Dąbrówki Gołuszyn Mak Małocin Pełki Pozga Sławęcin Stanisławowo Stawiszyn Łaziska Stawiszyn Zwalewo Trzaski Wilewo Władysławowo Municipality of Żuromin: Będzimin Chamsk Dębsk Franciszkowo Kruszewo Młudzyno Olszew Poniatowo Żuromin	

ISO Country Code	Member State	Area A		Date until applicable Article 4(4)(b)(iii)
		Code (if available)	Name	
			Municipality of Lutocin: Chromakowo Elżbiecin Felcyn Jonne Lutocin Mojnowo Nowy Przeradz Obręb Parlin Przeradz Mały Przeradz Wielki Seroki Swojęcín Zimolza Municipality of Siemiątkowo: Antoniewo Dzieczewo Nowa Wieś Nowopole Siciarz Sokołowy Kąt	
		MAZOWIECKIE VOIVODSHIP 01400 MŁAWSKI 01413	Municipality of Radzanów: Zgliczyn Glinki Zgliczyn Kościelny Zgliczyn Witowy	
		KUJAWSKO- POMORSKIE VOIVODSHIP 00400 WŁOCŁAWSKI 00418	Surveillance zone: Municipality of Włocławek: Dąb Mały Dąb Polski Dąb Wielki Dobiegniewo Jazy	
		KUJAWSKO- POMORSKIE VOIVODSHIP 00400 LIPNOWSKI 00408	Municipality of Dobrzyń nad Wisłą: Chalin Chudzewo Dobrzyń Nad Wisłą Kamienica Łagiewniki Lenie Wielkie Michałkowo Mokówko Mokowo Płomiany Ruszkowo Wierznica Wierzniczka Municipality of Tłuchowo: Trzcianka	

2. The following text replaces the entry for Poland in Part B:

ISO Country Code	Member State	Area B		Date until applicable Article 4(4)(b)(iii)
		Code (if available)	Name	
PL	POLAND	MAZOWIECKIE VOIVODSHIP 01400 PŁOCKI 01419	Municipalities of: Bielsk Bodzanów Brudzeń Duży Bulkowo Drobin Gąbin Łąck Mała Wieś Nowy Duninów Radzanowo Słubice Słupno Stara Biała Staroźreby Wyszogród	9.1.2008
		MAZOWIECKIE VOIVODSHIP 01400 PŁOCK 01462		
		MAZOWIECKIE VOIVODSHIP 01400 PŁOŃSKI 01420	Municipality of Raciąż	
		MAZOWIECKIE VOIVODSHIP 01400 CIECHA- NOWSKI 01402	Municipality of Głinojeck	
		MAZOWIECKIE VOIVODSHIP 01400 MŁAWSKI 01413	Municipality of Lipowiec Kościelny: Wiśniewo Strzegowo Szreńsk Radzanów (areas other than listed in Area A)	
		MAZOWIECKIE VOIVODSHIP 01400 GOSTYNIŃSKI 01404	Municipalities of: Gostynin Pacyna Sanniki Szczawin Kościelny	
		MAZOWIECKIE VOIVODSHIP 01400 SIERPECKI 01427	Municipalities of: Gozdowo Mochowo Rościszewo (areas other than listed in Area A) Sierpc	

ISO Country Code	Member State	Area B		Date until applicable Article 4(4)(b)(iii)
		Code (if available)	Name	
			Sierpc city Szczutowo Zawidz Kościelny (areas other than listed in Area A)	
		MAZOWIECKIE VOIVODSHIP 01400 ŻUROMIŃSKI 01437	Municipalities of: Lubowidz Kuczbork Osada Lutocin (areas other than listed in Area A) Siemiatkowo (areas other than listed in Area A)	
		KUJAWSKO- POMORSKIE VOIVODSHIP 00400 WŁOCLAWSKI 00418	Municipalities of: Baruchowo Boniewo Brześć Kujawski Chocień Chodecz Fabianki Izbica Kujawska Kowal Lubanie Lubień Kujawski Lubraniec Włocławek	
		KUJAWSKO- POMORSKIE VOIVODSHIP 00400 LIPNOWSKI 00408	Municipalities of: Bobrowniki Chrostkowo Dobrzyń nad Wisłą Kikół Lipno Skępe Tłuchowo Wielgie	
		KUJAWSKO- POMORSKIE VOIVODSHIP 00400 WŁOCLAWEK 00464		
		KUJAWSKO- POMORSKIE VOIVODSHIP 00400 BRODNICKI 00402	Municipalities of: Górzno Świedziebna	
		KUJAWSKO- POMORSKIE VOIVODSHIP 00400 RYPIŃSKI 00412	Municipalities of: Rogowo Rypin Skrwilno	

ISO Country Code	Member State	Area B		Date until applicable Article 4(4)(b)(iii)
		Code (if available)	Name	
		WARMIŃSKO- MAZURSKIE VOIVODSHIP 02800 DZIAŁDOWSKI 02803	Municipalities of: Działdowo Działdowo city Łowo - Osada Lidzbark Płońnica	