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⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 24 April 2012

on the position to be taken by the European Union in the EEA Joint Committee concerning an amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms

(2012/271/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 196 and 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area ⁽¹⁾, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Protocol 31 to the Agreement on the European Economic Area ⁽²⁾ ('the EEA Agreement') contains specific provisions and arrangements concerning cooperation in specific fields outside the four freedoms.
- (2) It is appropriate to extend the cooperation of the Contracting Parties to the EEA Agreement to activities outside the four freedoms.
- (3) In order to allow for such extended cooperation, Protocol 31 to the EEA Agreement should be amended by including within its scope Council Directive

2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection ⁽³⁾.

- (4) The position of the Union in the EEA Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union in the EEA Joint Committee on the proposed amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms, shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Luxembourg, 24 April 2012.

For the Council
The President
N. WAMMEN

⁽¹⁾ OJ L 305, 30.11.1994, p. 6.

⁽²⁾ OJ L 1, 3.1.1994, p. 3.

⁽³⁾ OJ L 345, 23.12.2008, p. 75.

DRAFT

DECISION No .../2012 OF THE EEA JOINT COMMITTEE
of
amending Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Articles 86 and 98 thereof,

Whereas:

- (1) Protocol 31 to the EEA Agreement was amended by Decision of the EEA Joint Committee No .../... of ... ⁽¹⁾.
- (2) It is appropriate to extend the cooperation of the Contracting Parties to the EEA Agreement to include Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection ⁽²⁾.
- (3) Protocol 31 to the EEA Agreement should therefore be amended in order to allow for such extended cooperation to take place,

HAS ADOPTED THIS DECISION:

Article 1

The following paragraph shall be inserted in Article 10 of Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms:

- '9. (a) The Contracting Parties shall cooperate with each other in the fields covered by the following act:

— **32008 L 0114**: Council Directive 2008/114/EC of 8 December 2008 on the identification and

designation of European critical infrastructures and the assessment of the need to improve their protection (OJ L 345, 23.12.2008, p. 75).

- (b) With a view to achieving the aims set out in Directive 2008/114/EC, the Contracting Parties shall make use of the appropriate forms of cooperation mentioned in Article 80 of the EEA Agreement.
- (c) By virtue of Article 79(3) of the EEA Agreement, Part VII (Institutional Provisions) of the EEA Agreement, with the exception of Sections 1 and 2 of Chapter 3, shall apply to this paragraph.'

Article 2

This Decision shall enter into force on the day following the last notification to the EEA Joint Committee under Article 103(1) of the EEA Agreement (*).

Article 3

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at ..., ...

For the EEA Joint Committee

The President *The Secretaries
to the EEA Joint Committee*

⁽¹⁾ OJ L ...

⁽²⁾ OJ L 345, 23.12.2008, p. 75.

^(*) [No constitutional requirements indicated.] [Constitutional requirements indicated.]

COUNCIL DECISION

of 14 May 2012

on the signing, on behalf of the Union, of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part

(2012/272/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(3), Articles 91 and 100, Article 191(4) and Articles 207 and 209 in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 25 November 2004, the Council authorised the Commission to negotiate a Framework Agreement with the Republic of the Philippines on Partnership and Cooperation ('the Agreement').
- (2) The provisions of the Agreement that fall within the scope of Part Three, Title V of the Treaty on the Functioning of the European Union bind the United Kingdom and Ireland as separate Contracting Parties, and not as part of the European Union, unless the European Union together with the United Kingdom and/or Ireland have jointly notified the Republic of the Philippines that the United Kingdom or Ireland is bound as part of the European Union in accordance with the Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union. If the United Kingdom and/or Ireland cease(s) to be bound as part of the European Union in accordance with Article 4a of the Protocol (No 21), the European Union together with the United Kingdom and/or Ireland are to immediately inform the Republic of the Philippines of any change in their position in which case they are to remain bound by the provisions of the Agreement in their own right. The same applies to Denmark in accordance with the Protocol (No 22) on the position of Denmark annexed to those Treaties.

- (3) Where the United Kingdom and/or Ireland has/have not provided the notification required under Article 3 of the Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice, they do not take part in the adoption by the Council of this Decision to the extent that it covers provisions pursuant to Part Three, Title V of the Treaty on the Functioning of the European Union. The same applies to Denmark in accordance with the Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union.

- (4) The Agreement should be signed, subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part, is hereby authorised on behalf of the Union, subject to the conclusion of the said Agreement ⁽¹⁾.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 3

This Decision shall enter into force on the day following its adoption.

Done at Brussels, 14 May 2012.

For the Council
The President
C. ASHTON

⁽¹⁾ The text of the Agreement will be published together with the decision on its conclusion.

COUNCIL DECISION

of 14 May 2012

on the signing, on behalf of the Union, of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and Mongolia, of the other part

(2012/273/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(3) and Articles 207 and 209, in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 27 July 2009, the Council authorised the Commission to negotiate a Framework Agreement on Partnership and Cooperation with Mongolia ('the Agreement').
- (2) The provisions of the Agreement that fall within the scope of Part Three, Title V of the Treaty on the Functioning of the European Union bind the United Kingdom and Ireland as separate Contracting Parties, and not as part of the European Union, unless the European Union together with the United Kingdom and/or Ireland have jointly notified Mongolia that the United Kingdom or Ireland is bound as part of the European Union in accordance with the Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union. If the United Kingdom and/or Ireland cease(s) to be bound as part of the European Union in accordance with Article 4a of the Protocol (No 21), the European Union together with the United Kingdom and/or Ireland are to immediately inform Mongolia of any change in their position in which case they are to remain bound by the provisions of the Agreement in their own right. The same applies to Denmark in accordance with the Protocol (No 22) on the position of Denmark annexed to those Treaties.
- (3) Where the United Kingdom and/or Ireland has/have not provided the notification required under Article 3 of the

Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice, they do not take part in the adoption by the Council of this Decision to the extent that it covers provisions pursuant to Part Three, Title V of the Treaty on the Functioning of the European Union. The same applies to Denmark in accordance with the Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union.

- (4) The Agreement should be signed subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and Mongolia, of the other part, is hereby authorised on behalf of the Union, subject to the conclusion of the said Agreement ⁽¹⁾.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 3

This Decision shall enter into force on the day following its adoption.

Done at Brussels, 14 May 2012.

For the Council
The President
C. ASHTON

⁽¹⁾ The text of the Agreement will be published together with the decision on its conclusion.

Information concerning a modification of Appendix IV to the Protocol on wine labelling as referred to in Article 8(2) of the Agreement between the European Community and the United States of America on trade in wine

By letter dated 16 May 2012, the Commission has confirmed to the United States of America that the Union agrees with the modifications of Appendix IV to the Protocol on wine labelling ⁽¹⁾.

In accordance with Article 11(5) of the Agreement between the European Community and the United States of America on trade in wine the modifications take effect on 1 June 2012.

⁽¹⁾ OJ L 87, 24.3.2006, p. 65.

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 434/2012

of 16 May 2012

entering a name in the register of protected designations of origin and protected geographical indications (Chelčicko — Lhenické ovoce (PGI))

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

- (1) Pursuant to the first subparagraph of Article 6(2) and in accordance with Article 17(2) of Regulation (EC) No 510/2006, the Czech Republic's application to register the name 'Chelčicko – Lhenické ovoce' was published in the *Official Journal of the European Union* ⁽²⁾.

- (2) As no statement of objection under Article 7 of Regulation (EC) No 510/2006 has been received by the Commission, that name should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name contained in the Annex to this Regulation is hereby entered in the register.

Article 2

This Regulation shall enter into force on the twentieth 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, 16 May 2012.

*For the Commission,
On behalf of the President,
Dacian CIOLOŞ
Member of the Commission*

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

⁽²⁾ OJ C 271, 14.9.2011, p. 22.

ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

Class 1.6. Fruit, vegetables and cereals, fresh or processed

CZECH REPUBLIC

Chelčicko — Lhenické ovoce (PGI)

COMMISSION IMPLEMENTING REGULATION (EU) No 435/2012**of 16 May 2012****entering a name in the register of protected designations of origin and protected geographical indications (Φασόλια Βανίλιες Φενεού (Fasolia Vanilies Feneou) (PGI))**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and food-stuffs ⁽¹⁾, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

- (1) Pursuant to the first subparagraph of Article 6(2) of Regulation (EC) No 510/2006, Greece's application to register the name 'Φασόλια Βανίλιες Φενεού' (Fasolia Vanilies Feneou) was published in the *Official Journal of the European Union* ⁽²⁾.

- (2) As no statement of objection under Article 7 of Regulation (EC) No 510/2006 has been received by the Commission, that name should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name contained in the Annex to this Regulation is hereby entered in the register.

Article 2

This Regulation shall enter into force on the twentieth 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, 16 May 2012.

*For the Commission,
On behalf of the President,
Dacian CIOLOȘ
Member of the Commission*

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

⁽²⁾ OJ C 273, 16.9.2011, p. 26.

ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

Class 1.6: Fruit, vegetables and cereals, fresh or processed

GREECE

Φασόλια Βανίλιες Φενεού (Fasolia Vanilies Feneou) (PGI)

COMMISSION IMPLEMENTING REGULATION (EU) No 436/2012

of 23 May 2012

amending the Annex to Regulation (EU) No 37/2010 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin, as regards the substance azamethiphos

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin, repealing Council Regulation (EEC) No 2377/90 and amending Directive 2001/82/EC of the European Parliament and of the Council and Regulation (EC) No 726/2004 of the European Parliament and of the Council⁽¹⁾, and in particular Article 14 in conjunction with Article 17 thereof,

Having regard to the opinion of the European Medicines Agency formulated by the Committee for Medicinal Products for Veterinary Use,

Whereas:

- (1) The maximum residue limit (hereinafter 'MRL') for pharmacologically active substances intended for use in the Union in veterinary medicinal products for food-producing animals or in biocidal products used in animal husbandry should be established in accordance with Regulation (EC) No 470/2009.
- (2) Pharmacologically active substances and their classification regarding MRLs in foodstuffs of animal origin are set out in the Annex to Commission Regulation (EU) No 37/2010 of 22 December 2009 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin⁽²⁾.

(3) Azamethiphos is currently included in Table 1 of the Annex to Regulation (EU) No 37/2010 as an allowed substance, for *salmonidae* species.

(4) An application for the extension of the existing entry for azamethiphos applicable to fin fish species has been submitted to the European Medicines Agency.

(5) The Committee for Medicinal Products for Veterinary Use recommended the extension of that entry and the absence of the need to establish an MRL for azamethiphos in fin fish species.

(6) The entry for azamethiphos in Table 1 of the Annex to Regulation (EU) No 37/2010 should therefore be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Veterinary Medicinal Products,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) No 37/2010 is amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the third 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, 23 May 2012.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 152, 16.6.2009, p. 11.

⁽²⁾ OJ L 15, 20.1.2010, p. 1.

ANNEX

The entry corresponding to azamethiphos in Table 1 of the Annex to Regulation (EU) No 37/2010 is replaced by the following:

Pharmacologically active Substance	Marker residue	Animal Species	MRL	Target Tissues	Other Provisions (<i>according to Article 14(7) of Regulation (EC) No 470/2009</i>)	Therapeutic classification
'Azamethiphos	NOT APPLICABLE	Fin fish	No MRL required	NOT APPLICABLE	NO ENTRY	Antiparasitic agents/Agents against ectoparasites'

COMMISSION REGULATION (EU) No 437/2012**of 23 May 2012**

initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No 791/2011 on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China by imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not, and making such imports subject to registration

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ ('the basic Regulation') and in particular Articles 13(3) and 14(5) thereof,

After having consulted the Advisory Committee in accordance with Articles 13(3) and 14(5) of the basic Regulation,

Whereas:

A. REQUEST

- (1) The European Commission ('the Commission') has received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China and to make imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not, subject to registration.
- (2) The request was lodged on 10 April 2012 by Saint-Gobain Adfors CZ s.r.o., Tolnatek Fonalfeldolgozo, Valmieras "Stikla Skiedra" AS and Vitruhan Technical Textiles GmbH, four Union producers of certain open mesh fabrics of glass fibres.

B. PRODUCT

- (3) The product concerned by the possible circumvention is open mesh fabrics of glass fibres, of a cell size of more than 1,8 mm both in length and in width and weighing more than 35g/m², excluding glass fibre discs, originating in the People's Republic of China, currently falling within CN codes ex 7019 51 00 and ex 7019 59 00 ('the product concerned').
- (4) The product under investigation is the same as that defined in the previous recital, but consigned from

Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not, currently falling within the same CN codes as the product concerned.

C. EXISTING MEASURES

- (5) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Council Implementing Regulation (EU) No 791/2011 ⁽²⁾.

D. GROUNDS

- (6) The request contains sufficient prima facie evidence that the anti-dumping measures on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China are being circumvented by means of transshipment via Taiwan and Thailand.
- (7) The prima facie evidence submitted is as follows:
 - (8) The request shows that a significant change in the pattern of trade involving exports from the People's Republic of China, Taiwan and Thailand to the Union has taken place following the imposition of measures on the product concerned, without sufficient due cause or justification for such a change other than the imposition of the duty.
 - (9) This change appears to stem from the transshipment of certain open mesh fabrics of glass fibres originating in the People's Republic of China via Taiwan and Thailand to the Union.
 - (10) Furthermore, the request contains sufficient prima facie evidence that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and price. Significant volumes of imports of the product under investigation appear to have replaced imports of the product concerned. In addition, there is sufficient evidence that imports of the product under investigation are made at prices below the non-injurious price established in the investigation that led to the existing measures.
 - (11) Finally, the request contains sufficient prima facie evidence that the prices of the product under investigation are dumped in relation to the normal value previously established for the product concerned.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ L 204, 9.8.2011, p. 1.

- (12) Should circumvention practices via Taiwan and Thailand covered by Article 13 of the basic Regulation, other than transshipment, be identified in the course of the investigation, the investigation may also cover these practices.

E. PROCEDURE

- (13) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the product under investigation, whether declared as originating in Taiwan and Thailand or not, subject to registration, in accordance with Article 14(5) of the basic Regulation.

(a) Questionnaires

- (14) In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the known exporters/producers and to the known associations of exporters/producers in Taiwan and Thailand, to the known exporters/producers and to the known associations of exporters/producers in the People's Republic of China, to the known importers and to the known associations of importers in the Union and to the authorities of the People's Republic of China, Taiwan and Thailand. Information, as appropriate, may also be sought from the Union industry.

- (15) In any event, all interested parties should contact the Commission forthwith, but not later than the time-limit set in Article 3 of this Regulation, and request a questionnaire within the time-limit set in Article 3(1) of this Regulation, given that the time-limit set in Article 3(2) of this Regulation applies to all interested parties.

- (16) The authorities of the People's Republic of China, Taiwan and Thailand will be notified of the initiation of the investigation.

(b) Collection of information and holding of hearings

- (17) All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) Exemption of registration of imports or measures

- (18) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from registration or measures if the importation does not constitute circumvention.

- (19) Since the possible circumvention takes place outside the Union, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers in Taiwan and Thailand of open mesh fabrics of glass fibres, of a cell size of more than 1,8mm both in length and in width and weighing more than 35g/m², excluding glass fibre discs, that can show that they are not related ⁽¹⁾ to any producer subject to the measures ⁽²⁾ and that are found not to be engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Producers wishing to obtain an exemption should submit a request duly supported by evidence within the time-limit indicated in Article 3(3) of this Regulation.

F. REGISTRATION

- (20) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation should be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied from the date on which registration of such imports consigned from Taiwan and Thailand was imposed.

G. TIME-LIMITS

- (21) In the interest of sound administration, time-limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation,

— producers in Taiwan and Thailand may request exemption from registration of imports or measures,

⁽¹⁾ In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognized partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half-blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law. (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.

⁽²⁾ However, even if producers are related in the aforementioned sense to companies subject to the measures in place on imports originating in the People's Republic of China (the original anti-dumping measures), an exemption may still be granted if there is no evidence that the relationship with the companies subject to the original measures was established or used to circumvent the original measures.

— interested parties may make a written request to be heard by the Commission.

— Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the time-limits mentioned in Article 3 of this Regulation.

H. NON-COOPERATION

(22) In cases in which any interested party refuses access to or does not provide the necessary information within the time-limits, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

(23) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available.

(24) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

I. SCHEDULE OF THE INVESTIGATION

(25) The investigation will be concluded, pursuant to Article 13(3) of the basic Regulation, within nine months of the date of the publication of this Regulation in the *Official Journal of the European Union*.

J. PROCESSING OF PERSONAL DATA

(26) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽¹⁾.

K. HEARING OFFICER

(27) Interested parties may request the intervention of the Hearing Officer of the Directorate-General for Trade. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time-limits and requests by third parties to be heard. The Hearing Officer may

organise a hearing with an individual interested party and mediate to ensure that the interested party's rights of defence are being fully exercised.

(28) A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered.

(29) For further information and contact details interested parties may consult the Hearing Officer's web pages on the Directorate-General for Trade's website: http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/index_en.htm.

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is hereby initiated pursuant to Article 13(3) of Regulation (EC) No 1225/2009, in order to determine if imports into the Union of open mesh fabrics of glass fibres, of a cell size of more than 1,8 mm both in length and in width and weighing more than 35g/m², excluding fibreglass discs, consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not, currently falling within CN codes ex 7019 51 00 and ex 7019 59 00 (TARIC codes 7019 51 00 12, 7019 51 00 13, 7019 59 00 12 and 7019 59 00 13), are circumventing the measures imposed by Council Implementing Regulation (EU) No 791/2011.

Article 2

The Customs authorities are hereby directed, pursuant to Article 13(3) and Article 14(5) of Regulation (EC) No 1225/2009, to take the appropriate steps to register the imports into the Union identified in Article 1 of this Regulation.

Registration shall expire nine months following the date of entry into force of this Regulation.

The Commission, by regulation, may direct Customs authorities to cease registration in respect of imports into the Union of products manufactured by producers having applied for an exemption of registration and having been found to fulfil the conditions for an exemption to be granted.

Article 3

Questionnaires must be requested from the Commission within 15 days from publication of this Regulation in the *Official Journal of the European Union*.

Interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views in writing and submit questionnaire replies or any other information within 37 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

Producers in Taiwan and Thailand requesting exemption from registration of imports or measures must submit a request duly supported by evidence within the same 37-day time-limit.

Interested parties may also apply to be heard by the Commission within the same 37-day time-limit.

Interested parties are required to make all submissions and requests in electronic format (non-confidential submissions via e-mail, confidential ones on CD-R/DVD), and must indicate their name, address, e-mail address, telephone and fax numbers. However, any Powers of Attorney, signed certifications, and any updates thereof, accompanying questionnaire replies must be submitted on paper, i.e. by post or by hand, at the address below. If an interested party cannot provide its submissions and requests in electronic format, it must immediately inform the Commission in compliance with Article 18(2) of the basic Regulation. For further information concerning correspondence with the Commission, interested parties may consult the relevant web page on the website of the Directorate-General for Trade: <http://ec.europa.eu/trade/tackling-unfair-trade/trade-defence>.

All written submissions, including the information requested in this Regulation, questionnaire replies and correspondence provided by interested parties on a confidential basis must be labelled as '*Limited*' ⁽¹⁾ and, in accordance with Article 19(2) of the basic Regulation, must be accompanied by a non-confidential version, which must be labelled '*For inspection by interested parties*'.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate H
Office: N105 4/92
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Fax +32 2 295 65 05

E-mail: TRADE-AC-MESH-TT@ec.europa.eu

Article 4

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, 23 May 2012.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ A '*Limited*' document is a document which is considered confidential pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343 22.12.2009 p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

COMMISSION IMPLEMENTING REGULATION (EU) No 438/2012**of 23 May 2012****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multi-lateral 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 Annex XVI, Part A thereto.

- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day 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, 23 May 2012.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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	AL	98,8
	MA	53,2
	TR	86,8
	ZZ	79,6
0707 00 05	AL	41,0
	JO	183,3
	MK	36,4
	TR	136,6
	ZZ	99,3
0709 93 10	JO	183,3
	TR	110,3
	ZZ	146,8
0805 10 20	EG	46,9
	IL	72,0
	MA	48,6
	ZZ	55,8
0805 50 10	TR	94,2
	ZA	85,7
	ZZ	90,0
0808 10 80	AR	127,9
	BR	83,9
	CA	135,2
	CL	96,6
	CN	82,5
	EC	94,2
	MK	41,0
	NZ	142,4
	US	168,3
	UY	67,9
	ZA	93,8
	ZZ	103,1

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION IMPLEMENTING REGULATION (EU) No 439/2012**of 23 May 2012****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Implementing Regulation (EU) No 971/2011 for the 2011/12 marketing year**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups for the 2011/12 marketing year are fixed by Commission Implementing Regulation (EU) No 971/2011 ⁽³⁾. Those prices and duties were last amended by Commission Implementing Regulation (EU) No 425/2012 ⁽⁴⁾.

- (2) The data currently available to the Commission indicate that those amounts should be amended in accordance with Article 36 of Regulation (EC) No 951/2006.

- (3) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Implementing Regulation (EU) No 971/2011 for the 2011/12 marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on the day 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, 23 May 2012.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 254, 30.9.2011, p. 12.

⁽⁴⁾ OJ L 131, 22.5.2012, p. 3.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 24 May 2012

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 12 10 ⁽¹⁾	37,46	0,00
1701 12 90 ⁽¹⁾	37,46	3,37
1701 13 10 ⁽¹⁾	37,46	0,05
1701 13 90 ⁽¹⁾	37,46	3,67
1701 14 10 ⁽¹⁾	37,46	0,05
1701 14 90 ⁽¹⁾	37,46	3,67
1701 91 00 ⁽²⁾	43,57	4,40
1701 99 10 ⁽²⁾	43,57	1,27
1701 99 90 ⁽²⁾	43,57	1,27
1702 90 95 ⁽³⁾	0,44	0,25

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.⁽³⁾ Per 1 % sucrose content.

DECISIONS

COMMISSION IMPLEMENTING DECISION

of 24 April 2012

determining the second set of regions for the start of operations of the Visa Information System (VIS)

(notified under document C(2012) 2505)

(2012/274/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) ⁽¹⁾, and in particular Article 48(4) thereof,

Whereas:

- (1) Article 48 of Regulation (EC) No 767/2008 provides for a progressive implementation of the VIS operations. The Commission in its Decision 2010/49/EC ⁽²⁾ determined the first regions for the start of operations of the VIS. Taking into account the start of operations of the VIS on 11 October 2011, it is necessary to determine a second set of regions where the data to be processed in the VIS, including photographs and fingerprint data, shall be collected and transmitted to the VIS for all visa applications in the region concerned.
- (2) Article 48(4) of Regulation (EC) No 767/2008 provides for the determination of the sequence of the regions for the VIS deployment based on the following criteria: the risk of irregular immigration, threats to the internal security of the Member States and the feasibility of collecting biometrics from all locations in the region concerned.
- (3) The Commission has made an assessment for the different regions taking into account, for the first criterion, elements such as the average visa refusal rates, the entry refusal rates and the rates of third country nationals detected as irregularly present in the territory of the Member States; for the second criterion, a threat assessment performed by Europol; and for the third criterion, the fact that the level of consular presence or representation has increased in all regions worldwide since the adoption of Decision 2010/49/EC.

- (4) According to this assessment, the subsequent regions where the collection and transmission of visa data to the VIS should start for all visa applications should be: West Africa, Central Africa, East Africa, Southern Africa, South America, Central Asia, South East Asia.

- (5) The occupied Palestinian territory was excluded from the Near East region, which was covered by Decision 2010/49/EC, due to the technical difficulties that could be encountered in the equipping of the consular posts or offices concerned. To avoid a gap when fighting irregular immigration and protecting internal security and taking into account the time left to Member States to solve the technical difficulties, the occupied Palestinian territory should be the 11th region where the collection and transmission of visa data to the VIS should start for all visa applications.

- (6) The starting date of the operations in each of these regions is to be determined by the Commission pursuant to Article 48(3) of Regulation (EC) No 767/2008.

- (7) For the determination of the further regions, subsequent decisions should be taken at a later stage on the basis of an additional and updated assessment of these other regions in accordance with the relevant criteria and the experience with the implementation in the regions determined by Decision 2010/49/EC and by the present Decision.

- (8) Given that the VIS Regulation builds upon the Schengen *acquis*, Denmark notified the implementation of the VIS Regulation in its national law in accordance with Article 5 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 therefore bound under international law to implement this Decision.

- (9) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern

⁽¹⁾ OJ L 218, 13.8.2008, p. 60.

⁽²⁾ OJ L 23, 27.1.2010, p. 62.

Ireland to take part in some of the provisions of the Schengen *acquis* ⁽¹⁾. The United Kingdom is therefore not bound by it or subject to its application.

- (10) This Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽²⁾. Ireland is therefore not bound by it or subject to its application.
- (11) As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* ⁽³⁾, which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC ⁽⁴⁾ on certain arrangements for the application of that Agreement.
- (12) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽⁵⁾, which fall within the area referred to in Article 1, point B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁶⁾.
- (13) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ⁽⁷⁾.
- (14) As regards Cyprus, this Decision constitutes an act building upon, or otherwise related to, the Schengen *acquis* within the meaning of Article 3(2) of the 2003 Act of Accession.
- (15) As regards Bulgaria and Romania, this Decision constitutes an act building upon or otherwise related to the Schengen *acquis* within the meaning of Article 4(2) of the 2005 Act of Accession.

- (16) The measures provided for in this Decision are in accordance with the opinion of the Committee set up by Article 51(1) of Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) ⁽⁸⁾,

HAS ADOPTED THIS DECISION:

Article 1

The regions where the collection and transmission of data to the Visa Information System (VIS) shall start, after the regions determined by Decision 2010/49/EC, according to Article 48(3) of Regulation (EC) No 767/2008, are the following:

— The fourth region:

Benin,
Burkina Faso,
Cape Verde,
Côte d'Ivoire,
The Gambia,
Ghana,
Guinea,
Guinea-Bissau,
Liberia,
Mali,
Niger,
Nigeria,
Senegal,
Sierra Leone,
Togo.

— The fifth region:

Burundi,
Cameroon,
Central African Republic,
Chad,
Congo,
Democratic Republic of the Congo,
Equatorial Guinea,
Gabon,
Rwanda,
São Tomé and Príncipe.

⁽¹⁾ OJ L 131, 1.6.2000, p. 43.

⁽²⁾ OJ L 64, 7.3.2002, p. 20.

⁽³⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁴⁾ OJ L 176, 10.7.1999, p. 31.

⁽⁵⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁶⁾ OJ L 53, 27.2.2008, p. 1.

⁽⁷⁾ OJ L 160, 18.6.2011, p. 19.

⁽⁸⁾ OJ L 381, 28.12.2006, p. 4.

— The sixth region:

Comoros,
Djibouti,
Eritrea,
Ethiopia,
Kenya,
Madagascar,
Mauritius,
Seychelles,
Somalia,
South Sudan,
Sudan,
Tanzania,
Uganda.

— The seventh region:

Angola,
Botswana,
Lesotho,
Malawi,
Mozambique,
Namibia,
South Africa,
Swaziland,
Zambia,
Zimbabwe.

— The eighth region:

Argentina,
Bolivia,
Brazil,
Chile,
Colombia,
Ecuador,
Paraguay,
Peru,

Uruguay,

Venezuela.

— The ninth region:

Kazakhstan,
Kyrgyzstan,
Tajikistan,
Turkmenistan,
Uzbekistan.

— The 10th region:

Brunei,
Burma/Myanmar,
Cambodia,
Indonesia,
Laos,
Malaysia,
Philippines,
Singapore,
Thailand,
Vietnam.

— The 11th region:

The occupied Palestinian territory.

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, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, 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 and the Kingdom of Sweden.

Done at Brussels, 24 April 2012.

For the Commission

Cecilia MALMSTRÖM

Member of the Commission

COMMISSION IMPLEMENTING DECISION

of 2 May 2012

on the inclusion of vine varieties in Appendix IV of the Protocol on wine labelling as referred to in Article 8(2) of the EC-US Agreement on trade in wine

(2012/275/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Decision 2006/232/EC of 20 December 2005 on the conclusion of the Agreement between the European Community and the United States of America on trade in wine ⁽¹⁾, and in particular Article 3 thereof,

Whereas:

- (1) The United States of America have requested that Appendix IV of the Protocol on wine labelling as referred to in Article 8(2) of the Agreement between the European Community and the United States of America on Trade in Wine ⁽²⁾ be modified to include vine varieties that were notified by the United States to the Commission on 27 October 2011. This request was made in accordance with point 3.6(b) of the abovementioned Protocol.
- (2) The notification refers to the final rule adopted by the Alcohol and Tobacco Tax and Trade Bureau and published in the Federal Register of 27 October 2011 ⁽³⁾ amending the Alcohol and Tobacco Tax and Trade Bureau regulations by adding a number of new names to the list of grape variety names approved for the designation of American wines.
- (3) The Commission has informed the United States within 60 days of the date of receipt of the notification that the vine varieties 'Montepulciano' and 'Blaufränkisch' can currently be used only for wines from certain Member States, pursuant to Article 62(3) of Commission Regulation (EC) No 607/2009 ⁽⁴⁾.

(4) The Commission should therefore confirm that the Union agrees with the proposed modifications of Appendix IV to the Protocol on wine labelling, except in respect of the vine varieties 'Montepulciano' and 'Blaufränkisch'.

(5) The Management Committee for the Common Organisation of Agricultural Markets has not given an opinion within the time limit set by its President,

HAS DECIDED AS FOLLOWS:

Article 1

In accordance with Article 11(5) of the Agreement between the European Community and the United States of America on trade in wine, the Commission shall confirm that the Union agrees with the proposed modifications of Appendix IV to the Protocol on wine labelling, except in respect of the vine varieties 'Montepulciano' and 'Blaufränkisch'.

The amended text of Appendix IV, as accepted by the Union, is set out in the Annex.

Article 2

The Director-General for Agriculture and Rural Development is hereby authorised to forward the written response to the United States of America.

Done at Brussels, 2 May 2012.

For the Commission
The President

José Manuel BARROSO

⁽¹⁾ OJ L 87, 24.3.2006, p. 1.

⁽²⁾ OJ L 87, 24.3.2006, p. 65.

⁽³⁾ Federal Register, Vol. 76, No 208, 27.10.2011, p. 66626.

⁽⁴⁾ OJ L 193, 24.7.2009, p. 60.

ANNEX

‘APPENDIX IV

on vine variety names as referred to in Part A, point 3.3.6 of the Protocol

Aglianico	Cabernet Doré	Corot noir	Folle blanche
Agawam	Cabernet Pfeffer	Cortese	Forastera
Albariño	Cabernet Sauvignon	Corvina	Fredonia
Albemarle	Calzin	Concord	Freedom
Aleatico	Campbell Early (Island Belle)	Conquistador	French Colombard (Colombard)
Alicante Bouschet	Canada Muscat	Couderc noir	Freisa
Aligote	Canaiole (Canaiole Nero)	Counoise	Frontenac
Alvarelhão	Canaiole Nero (Canaiole)	Cowart	Frontenac gris
Alvarinho	Captivator	Creek	Fry
Arneis	Carignan (Carignane)	Crimson Cabernet	Fumé blanc (Sauvignon blanc)
Aurore	Carignane (Carignan)	Dearing	Furmint
Auxerrois	Carlos	De Chaunac	Gamay noir
Bacchus	Carmenère	Delaware	Garnacha (Grenache, Grenache noir)
Baco blanc	Carmine	Diamond	Garnacha blanca (Grenache blanc)
Baco noir	Carnelian	Dixie	Garronet
Barbera	Cascade	Dolcetto	Geneva Red 7
Beacon	Castel 19-637	Doreen	Gewürztraminer
Beclan	Catawba	Dornfelder	Gladwin 113
Bellandais	Cayuga White	Dulcet	Glennel
Beta	Centurion	Durif (Petite Sirah)	Gold
Biancolella	Chambourcin	Dutchess	Golden Isles
Black Corinth	Chancellor	Early Burgundy	Golden Muscat
Black Malvoisie (Cinsaut)	Charbono	Early Muscat	Graciano
Black Monukka	Chardonnay	Edelweiss	Grand Noir
Black Muscat (Muscat Hamburg)	Chardonnay	Eden	Green Hungarian
Black Pearl	Chasselas doré	Ehrenfelser	Grenache (Garnacha, Grenache noir)
Blanc Du Bois	Chelois	Ellen Scott	Grenache blanc (Garnacha blanca)
Blue Eye	Chenin blanc	Elvira	Grenache noir (Garnacha, Grenache)
Bonarda	Chief	Emerald Riesling	Grignolino
Bountiful	Chowan	Erbaluce	Grillo
Brianna	Cinsaut (Black Malvoisie)	Favorite	Gros Verdor
Burdin 4672	Clairette blanche	Ferher Szagos	Grüner Veltliner
Burdin 5201	Clinton	Fernao Pires	Helena
Burdin 11042	Colombard (French Colombard)	Fern Munson	Herbement
Burgaw	Colobel	Fiano	
Burger		Flora	
Cabernet franc		Florental	
Cabernet Diane			

Higgins	Melon	Ontario	Rosette
Horizon	(Melon de Bourgogne)	Orange Muscat	Roucanneuf
Hunt	Melon de Bourgogne (Melon)	Palomino	Rougeon
Interlaken	Merlot	Pamlico	Roussanne
Iona	Meunier	Pedro Ximenes	Royalty
Isabella	(Pinot Meunier)	Peloursin	Rubired
Island Belle (Campbell Early)	Mish	Petit Bouschet	Ruby Cabernet
Ives	Mission	Petit Manseng	Sabrevois
James	Missouri Riesling	Petit Verdot	Sagrantino
Jewell	Monastrell	Petite Sirah (Durif)	St Croix
Joannes Seyve 12-428	(Mataro, Mourvèdre)	Peperella	St Laurent
Joannes Seyve 23-416	Mondeuse (Refosco)	Picpoul (Piquepoul blanc)	St Pepin
Kerner	Montefiore	Pinotage	St Vincent
Kay Gray	Moore Early	Pinot blanc	Saint Macaire
Kleinberger	Morio-Muskat	Pinot gris (Pinot gris)	Salem
La Crescent	Moscato greco (Malvasia bianca)	Pinot gris (Pinot Grigio)	Salvador
LaCrosse	Mourvèdre	Pinot Meunier (Meunier)	Sangiovese
Lagrein	(Mataro, Monastrell)	Pinot noir	Sauvignon blanc (Fumé blanc)
Lake Emerald	Müller-Thurgau	Piquepoul blanc (Picpoul)	Sauvignon gris
Lambrusco	Münch	Prairie Star	Scarlet
Landal	Muscadelle	Precoc de Malingre	Scheurebe
Landot noir	Muscat blanc (Muscat Canelli)	Pride	Sémillon
Lenoir	Muscat Canelli (Muscat blanc)	Primitivo	Sereksiya
Leon Millot	Muscat du Moulin	Princess	Seyval (Seyval blanc)
Lemberger (Limberger)	Muscat Hamburg (Black Muscat)	Rayon d'Or	Seyval blanc (Seyval)
Limberger (Lemberger)	Muscat of Alexandria	Ravat 34	Shiraz (Syrah)
Louise Swenson	Muscat Ottonel	Ravat 51 (Vignoles)	Siegerrebe
Lucie Kuhlmann	Naples	Ravat noir	Siegfried
Madeline Angevine	Nebbiolo	Redgate	Southland
Magnolia	Negrara	Refosco (Mondeuse)	Souzão
Magoon	Négrette	Regale	Steuben
Malbec	Negro Amaro	Reliance	Stover
Malvasia bianca (Moscato greco)	Nero d'Avola	Riesling (White Riesling)	Sugargate
Mammolo	New York Muscat	Rkatsiteli (Rkatsiteli)	Sultanina (Thompson Seedless)
Marechal Foch	Niagara	Rkatziteli (Rkatsiteli)	Summit
Marquette	Noah	Roanoke	Suwannee
Marsanne	Noret	Rondinella	Sylvaner
Mataro (Monastrell, Mourvèdre)	Norton (Cynthiana)		Symphony
Melody			Syrah (Shiraz)

Swenson Red	Traminer	Van Buren	Vincent
Tannat	Traminette	Veeblanc	Viognier
Tarheel	Trebbiano	Veltliner	Vivant
Taylor	(Ugni blanc)	Ventura	Watergate
Tempranillo	Trousseau	Verdelet	Welder
(Valdepeñas)	Trousseau gris	Verdelho	Welsch Rizling
Teroldego	Ugni blanc	Vergennes	White Riesling
Thomas	(Trebbiano)	Vermentino	(Riesling)
Thompson Seedless	Valdepeñas	Vidal blanc	Wine King
(Sultanina)	(Tempranillo)	Vignoles	Yuga
Tinta Madeira	Valdigué	(Ravat 51)	Zinfandel
Tinto cão	Valerien	Villard blanc	Zinthiana
Topsail	Valiant	Villard noir	Zweigelt'
Touriga	Valvin Muscat		

COMMISSION IMPLEMENTING DECISION

of 10 May 2012

on the European Union financial contribution to national programmes of 10 Member States (Belgium, Bulgaria, Denmark, Estonia, Italy, Cyprus, Latvia, Romania, Slovenia and Finland) in 2012 for the collection, management and use of data in the fisheries sector

(notified under document C(2012) 3024)

(Only the Bulgarian, Danish, Dutch, Estonian, Finnish, French, Greek, Italian, Latvian, Romanian, Slovenian and Swedish texts are authentic)

(2012/276/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 861/2006 of 22 May 2006 establishing Community financial measures for the implementation of the common fisheries policy and in the area of the Law of the Sea ⁽¹⁾, and in particular Article 24(1) thereof,

Whereas:

- (1) Regulation (EC) No 861/2006 lays down the conditions whereby Member States may receive a contribution from the European Union for expenditure incurred in their national programmes of collection and management of data.
- (2) Those programmes are to be drawn up in accordance with Council Regulation (EC) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy ⁽²⁾ and Commission Regulation (EC) No 665/2008 of 14 July 2008 laying down detailed rules for the application of Council Regulation (EC) No 199/2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy ⁽³⁾.
- (3) Belgium, Bulgaria, Denmark, Estonia, Italy, Cyprus, Latvia, Romania, Slovenia and Finland have submitted national programmes for 2011-2013 as provided for in Article 4(4) and (5) of Regulation (EC) No 199/2008. These programmes were approved in 2011 in accordance with Article 6(3) of Regulation (EC) No 199/2008.
- (4) Those Member States have submitted annual budget forecasts for the year 2012 according to Article 2 of Commission Regulation (EC) No 1078/2008 of 3 November 2008 laying down detailed rules for the

implementation of Council Regulation (EC) No 861/2006 as regards the expenditure incurred by Member States for the collection and management of the basic fisheries data ⁽⁴⁾. The Commission has evaluated Member States' annual budget forecasts, as laid down in Article 4 of Regulation (EC) No 1078/2008, by taking into account the approved national programmes.

- (5) Article 5 of Regulation (EC) No 1078/2008 establishes that the Commission is to approve the annual budget forecast and is to decide on the annual Union financial contribution to each national programme in accordance with the procedure laid down in Article 24 of Regulation (EC) No 861/2006 and on the basis of the outcome of the evaluation of the annual budget forecasts as referred to in Article 4 of Regulation (EC) No 1078/2008.
- (6) Article 24(3)(b) of Regulation (EC) No 861/2006 establishes that a Commission Decision is to fix the rate of the financial contribution. Article 16 of that Regulation provides that Union financial measures in the area of basic data collection are not to exceed 50 % of the costs incurred by Member States in carrying out the programme of collection, management and use of data in the fisheries sector.
- (7) This Decision constitutes the financing decision within the meaning of Article 75(2) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁵⁾.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS DECISION:

Article 1

The maximum global amounts of the Union financial contribution to be granted to each Member State for the collection, management and use of data in the fisheries sector for 2012 and the rate of the Union financial contribution, are established in the Annex.

⁽¹⁾ OJ L 160, 14.6.2006, p. 1.

⁽²⁾ OJ L 60, 5.3.2008, p. 1.

⁽³⁾ OJ L 186, 15.7.2008, p. 3.

⁽⁴⁾ OJ L 295, 4.11.2008, p. 24.

⁽⁵⁾ OJ L 248, 16.9.2002, p. 1.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Republic of Bulgaria, the Kingdom of Denmark, the Republic of Estonia, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, Romania, the Republic of Slovenia and the Republic of Finland.

Done at Brussels, 10 May 2012.

For the Commission

Maria DAMANAKI

Member of the Commission

ANNEX

NATIONAL PROGRAMMES 2011-2013

ELIGIBLE EXPENDITURE AND MAXIMUM UNION CONTRIBUTION FOR 2012

(EUR)		
Member State	Eligible expenditure	Maximum Union contribution (Rate of 50 %)
Belgium	2 108 145,00	1 054 072,50
Bulgaria	199 740,00	99 870,00
Denmark	6 440 240,00	3 220 120,00
Estonia	566 084,00	283 042,00
Italy	7 859 576,00	3 929 788,00
Cyprus	395 709,00	197 854,50
Latvia	337 444,00	168 722,00
Romania	507 906,00	253 953,00
Slovenia	180 783,00	90 391,50
Finland	1 761 072,00	880 536,00
Total	20 356 699,00	10 178 349,50

COMMISSION IMPLEMENTING DECISION**of 21 May 2012****amending Decision 2002/840/EC adopting the list of approved facilities in third countries for the irradiation of foods***(notified under document C(2012) 3179)***(Text with EEA relevance)***(2012/277/EU)*

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 1999/2/EC of the European Parliament and of the Council of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation ⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) According to Directive 1999/2/EC, a foodstuff treated with ionising radiation may not be imported from a third country unless it has been treated in an irradiation facility approved by the European Union.
- (2) A list of approved facilities in third countries has been established by Commission Decision 2002/840/EC ⁽²⁾.
- (3) The Thai authorities have informed the Commission that the name of one of the approved irradiation facilities located in Thailand has changed.

(4) Decision 2002/840/EC should therefore be amended accordingly.

(5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2002/840/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, 21 May 2012.

For the Commission

John DALLI

Member of the Commission

⁽¹⁾ OJ L 66, 13.3.1999, p. 16.

⁽²⁾ OJ L 287, 25.10.2002, p. 40.

ANNEX

In the Annex to Decision 2002/840/EC,

Reference No: EU-AIF 08-2006

Isotron (Thailand) Ltd
Bangpakong Industrial Park (Amata Nakorn)
700/465 Moo 7, Tambon Donhuaroh
Amphur Muang
Chonburi 20000
Thailand

Tel. (66) (0) 38 458431 to 4
Fax (66) (0) 38 458435'

is replaced by:

Reference No: EU-AIF 08-2006

Synergy Health (Thailand) Ltd
700/465 Amata Nakorn Industrial
Moo 7, Tambon Donhuaroh
Amphur Muang
Chonburi 20000
Thailand

Tel. (66) (0) 38 458431 to 3 and (66) (0) 38 450092 to 3
Fax (66) (0) 38 458435 and (66) (0) 38 717146'

COMMISSION DECISION**of 23 May 2012****terminating the anti-subsidy proceeding concerning imports of certain stainless steel fasteners and parts thereof originating in India**

(2012/278/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community ⁽¹⁾ ('the basic Regulation'), and in particular Article 14 thereof,

After consulting the Advisory Committee,

Whereas:

(5) The Commission continued to seek and verify all information it deemed necessary for its definitive findings. The oral and written comments submitted by the interested parties were considered and, where appropriate, the provisional findings were modified accordingly.

(6) Subsequently, all parties were informed of the essential facts and considerations on the basis of which it was intended to terminate the anti-subsidy proceeding concerning imports of certain stainless steel fasteners and parts thereof originating in India and to release the amounts secured by way of the provisional duty ('final disclosure'). All parties were granted a period within which they could make comments on this final disclosure.

1. PROCEDURE**1.1. Provisional measures**

- (1) The European Commission ('the Commission'), by Regulation (EU) No 115/2012 ⁽²⁾ ('the provisional Regulation'), imposed a provisional countervailing duty on imports of certain stainless steel fasteners and parts thereof originating in India ('India' or 'the country concerned').
- (2) The proceeding was initiated on 13 May 2011 ⁽³⁾, following a complaint lodged on 31 March 2011 by the European Industrial Fasteners Institute (EIFI) ('the complainant'), on behalf of producers representing more than 25 % of total Union production of certain stainless steel fasteners and parts thereof.
- (3) As set out in recital 21 of the provisional Regulation, the investigation of subsidy and injury covered the period from 1 April 2010 to 31 March 2011 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2008 to the end of the IP ('the period considered').

1.2. Subsequent procedure

- (4) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional countervailing measures ('provisional disclosure'), several interested parties made written submissions making known their views on the provisional findings. The parties who so requested were granted an opportunity to be heard.

2. PRODUCT CONCERNED AND LIKE PRODUCT

- (7) After final disclosure, one party reiterated its comments regarding the definition of the product concerned and the like product provided in recitals 22 and 23 of the provisional Regulation claiming that certain product types should be excluded from the product scope of this investigation.
- (8) However, the investigation has confirmed that the different product types are covered by the description of the product concerned and like product and share the same basic physical, chemical and technical characteristics and end uses and therefore belong to the same product category. Therefore, this claim was rejected.
- (9) In the absence of other comments concerning the product concerned and the like product, recitals 22 and 23 of the provisional Regulation are hereby confirmed.

3. SUBSIDISATION**3.1. Introduction**

- (10) In recital 24 of the provisional Regulation, reference was made to the following schemes, which allegedly involve the granting of subsidies:

(a) Duty Entitlement Passbook Scheme (DEPBS);

(b) Advance Authorisation Scheme (AAS);

⁽¹⁾ OJ L 188, 18.7.2009, p. 93.

⁽²⁾ OJ L 38, 11.2.2012, p. 6.

⁽³⁾ OJ C 142, 13.5.2011, p. 36.

(c) Export Promotion Capital Goods Scheme (EPCGS);

(d) Export Oriented Units Scheme (EOUS);

(e) Focus Product Scheme (FPS);

(f) Export Credit Scheme (ECS);

(g) Electricity Duty Exemption.

(11) The Union industry questioned whether the Commission failed to take into account a number of subsidy schemes, and as a result believed that the subsidies found to be received by Indian producers were underestimated.

(12) In reply to this, it should be noted that the complaint contained a great number of national and local subsidy schemes, which were included in the questionnaire to exporting producers in India and investigated by the Commission. However, only for the schemes listed in recital 10 above, it was found that the investigated exporting producers in the sample had received subsidies.

(13) In the absence of any other comments, recitals 24 to 27 of the provisional Regulation are hereby confirmed.

(14) No comments were received on the findings regarding FPS and on the Electricity Duty Exemption. As regards DEPBS, AAS, EPCGS and ECS, the cooperating exporting producers provided detailed comments. Most of these comments related to the calculation of the subsidy amounts and certain comments resulted in slight adjustments to those calculations. However, the overall conclusions on these schemes were not affected by such comments and are herewith confirmed. Comments were also received on the EOUS. Taking account of the impact of such comments on the EOUS, as summarised below in recitals 13 to 19, there is no need to reproduce in detail the other comments received on the abovementioned four schemes.

3.2. Export oriented units scheme (EOUS)

3.2.1. General

(15) It should be recalled that, as also mentioned under Section 3.5 of the provisional Regulation, a crucial obligation of an Export Oriented Unit (EOU) as set out in the Foreign Trade (FT)-policy 2009-2014 is to achieve net foreign exchange (NFE) earnings, which means that in a reference period (five years) the total value of exports has to be higher than the total value of imported goods. In principle, all enterprises that undertake to export their

entire production of goods or services may be set up under the EOUS. In return, companies enjoying this EOU status are entitled to a number of concessions listed under recital 71 of the provisional Regulation. These concessions are financial contributions of the Government of India (GOI) within the meaning of Article 3(1)(a)(ii) of the basic Regulation and they confer a benefit upon the EOUs. They are contingent in law upon export performance, and therefore deemed to be specific and countervailable under Article 4(4), first paragraph, point (a) of the basic Regulation.

(16) In the provisional Regulation it was stated that the EOUS could not be considered as a permissible duty drawback system or substitution drawback system within the meaning of Article 3(1)(a)(ii) of the basic Regulation as it did not conform to the strict rules laid down in Annex I (items (h) and (i)), Annex II (definition and rules for drawback) and Annex III (definition and rules for substitution drawback) to the basic Regulation. Indeed, it could not be established that the GOI has a verification system or procedure in place to confirm whether and in what amounts duty and/or sales tax-free procured inputs were consumed in the production of the exported product (see Annex II(II)(4) to the basic Regulation and, in the case of substitution drawback schemes, Annex III(II)(2) to the basic Regulation). The verification system in place aims at monitoring the NFE earning obligation and not the consumption of imports in relation to the production of exported goods.

(17) Subsequent to the provisional disclosure, no substantive arguments were raised against the nature of the EOUS, as described above, in particular the absence of an effective verification system and its countervailability. Therefore, the conclusions on the EOUS, as summarised in recitals 78-81 of the provisional Regulation, are herewith confirmed.

3.2.2. Submission of Viraj Profiles Limited

(18) The sole sampled party with an EOU status was Viraj Profiles Limited ('Viraj'). The EOU subsidy rate established for this producer at the provisional stage was 2,73 % out of a total subsidy rate of 3,2 %. Viraj represented, in volume, 87 % of Indian exports to the Union.

(19) As already mentioned in recital 77 of the provisional Regulation, Viraj submitted detailed comments on the scheme. The exporting producer concerned claimed that the subsidy calculated under the scheme would not be compliant with Article 15(1) of the basic Regulation, according to which the amount of the countervailable duty shall not exceed the amount of countervailable subsidies actually received by the company. It claimed that, therefore, the overall subsidy rate for the company would be below 2 %, i.e. *de minimis*. The company submitted detailed accounting data to support its claim.

(20) The claim was duly analysed. The detailed accounting data provided by Viraj in its submissions could be linked to the accounting data verified during the verification visit and these data suggested that indeed the countervailable benefit received by the company during the investigation period had been overestimated. Therefore, the countervailing duty for Viraj has been recalculated accordingly.

(21) Consequently, the EOUS subsidy rate of Viraj was recalculated and is definitely set at 0,44 %. Including the subsidy rates established for EPCGS (recalculated at 0,05 %), ECS (recalculated at 0,12 %) and Electricity duty exemption (0,09 %), Viraj's total subsidy rate was definitively established at 0,7 %, i.e. below the *de minimis* threshold.

3.2.3. Comments of the Union industry on the final disclosure

(22) After final disclosure, Union industry submitted comments arguing that the recalculations made in relation to EUOS benefits received by Viraj were unjustified and incorrect. It argued that the Commission's analysis was incomplete, inconsistent with the way the Institutions usually countervail this scheme and that it failed to take into account other possible scenarios where Viraj could have unduly disposed of the duty-exempted imports. Furthermore, the Union industry alleged that Viraj's late submission of the non-confidential comments on the provisional disclosure seriously prejudiced the Union industry's right of defence.

(23) With respect to the recalculation of Viraj's subsidy margin, it should be clarified that this exporting producer had demonstrated that the established provisional countervailable duty was exceeding the amount of countervailable subsidies actually received. Indeed, the company demonstrated that the potential duty foregone had provisionally been overestimated and, therefore, this had to be corrected in the final calculation. It would have been against the provisions of Article 3 of the basic Regulation to countervail certain financial contributions which, clearly and beyond doubt, cannot be considered to confer any benefit to Viraj. However, it is still considered that, with regard to certain transactions, the scheme has conferred specific subsidies to the company concerned which should be countervailed. This approach, therefore, is fully consistent with the way the Institutions have countervailed the scheme in the past. Accordingly, the revision of the EOUS subsidy margin is in full compliance with Article 15(1) of the basic Regulation.

(24) As to the alleged violation of the Union industry's right of defence, it should be noted that Viraj's comments on the EOUS subsidy calculation were also included in two open submissions filed prior to the imposition of provisional measures, as well as in two later open submissions. The first and key submission in this regard, which led the Commission to analyse the issue in-depth and, eventually to reconsider its position, had

been submitted in December 2011 and was already referred to in recital 77 of the provisional Regulation. All aforementioned documents had been included in the file for inspection by interested parties without delay. Viraj's comments to the provisional disclosure merely summarised the position already taken in its previous submissions. While the open version of Viraj's comments to the provisional disclosure was indeed filed by Viraj at a late stage, it was promptly made available by the Commission to the Union industry, which was granted an additional time period to submit comments thereon.

(25) In view of the above considerations, the claims of the Union industry had to be rejected.

3.2.4. Other subsidy issues

(26) Comments were also received on the calculation of the subsidy margin for the cooperating non-sampled exporting producers and the residual subsidy margin calculation. Moreover, the sole exporting producer which had claimed individual examination insisted that its request should be addressed. However, in view of the conclusions under causation below, it is not necessary to take a final position on these matters.

4. UNION INDUSTRY

(27) In the absence of comments concerning the Union production and the Union industry recitals 120 to 123 of the provisional Regulation are hereby confirmed.

5. INJURY

5.1. Preliminary remarks and Union consumption

(28) In the absence of comments concerning the preliminary remarks and Union consumption, recitals 124 to 130 of the provisional Regulation are hereby confirmed.

5.2. Imports from the country concerned

(29) One party claimed that the provisional analysis of the development of import prices from India and price undercutting, based on average prices, was misleading, since allegedly it does not take into account the variation of the product mix from one year to the other during the period considered.

(30) In this respect, it is worth noting that data on prices per product type are only available for the IP, for which exporting producers and Union producers are asked to provide a detailed transaction listing as part of their questionnaire replies. Therefore, in the absence of data per product type for the other years within the period considered, a meaningful analysis of the development of import prices can only be made based on average prices.

It should also be noted that the party in question did not provide any evidence to demonstrate why the analysis regarding the development of import prices would be misleading. Therefore, this claim was rejected.

- (31) As regards undercutting, it is recalled that as mentioned in recital 134 of the provisional Regulation, in order to determine price undercutting during the IP, the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level, were compared to the corresponding weighted average prices of the imports from India to the first independent customer on the Union market, established on a CIF basis, with appropriate adjustments for the existing customs duties and post-importation costs.
- (32) Furthermore, as mentioned in recital 135 of the provisional Regulation, the price comparison was made on a type-by-type basis for transactions at the same level of trade. Therefore, the claim of this party as regards undercutting was rejected.
- (33) In the absence of any other comments concerning imports from the country concerned, recitals 131 to 135 of the provisional Regulation are hereby confirmed.

5.3. Economic situation of the Union industry

5.3.1. Production, production capacity and capacity utilisation

- (34) One party claimed that the analysis made in the provisional Regulation concerning the decrease in the production of the Union industry was misleading and claimed that the decrease in production volumes should be seen in the light of unutilised capacity of the Union industry, which also showed a decreasing trend during the period considered.
- (35) The investigation showed that the decline in production coincided with the decrease in sales and the increase of stocks. This situation led some Union producers to close some of their production lines, which explains the decrease in capacity utilisation. The claim of the party was therefore rejected.
- (36) In the absence of any other comments concerning production, production capacity and capacity utilisation, recitals 137 and 138 of the provisional Regulation are hereby confirmed.

5.3.2. Sales volume and market share

- (37) In the absence of comments concerning the development of sales volume and market share of the Union industry, recital 139 of the provisional Regulation is hereby confirmed.

5.3.3. Growth

- (38) In the absence of comments concerning growth, recital 140 of the provisional Regulation is hereby confirmed.

5.3.4. Employment

- (39) In the absence of comments concerning employment, recitals 141 and 142 of the provisional Regulation are hereby confirmed.

5.3.5. Average unit prices in the Union

- (40) In the absence of comments concerning average unit prices in the Union, recitals 143 and 144 of the provisional Regulation are hereby confirmed.

5.3.6. Profitability, cash flow, investments, return on investments and ability to raise capital

- (41) In the absence of comments concerning profitability, cash flow, investments, return on investments and ability to raise capital, recitals 145 to 148 of the provisional Regulation are hereby confirmed.

5.3.7. Stocks

- (42) One party requested the Commission to provide actual figures with regard to the development of stock levels over the period considered instead of indexed figures, claiming that indexation did not allow it to make effective comments or to assess the level of stocks as a percentage of sales of the Union industry.

- (43) For reasons of confidentiality, as explained in recital 127 of the provisional Regulation, certain micro indicators, including stocks, had to be indexed. In any event, the indexation of closing stocks of the Union industry in table 10 of the provisional Regulation provides a reasonable understanding of the development of stocks during the period considered. Therefore this claim was rejected.

- (44) In the absence of other comments concerning stocks, recital 149 of the provisional Regulation is hereby confirmed.

5.3.8. Magnitude of the subsidy margin

- (45) It is recalled that the largest Indian exporting producer representing 87 % of the Indian exports to the Union in the IP was found not to be subsidised. Consequently subsidised imports accounted for 13 % of the total volume of the product concerned exported from India to the Union. Given the volume, market share and prices of the subsidised imports from India, the impact on the Union industry of the actual subsidy margins may be considered to be negligible.

5.3.9. Conclusion on injury

- (46) The investigation confirmed that most of the injury indicators showed a declining trend during the period considered. Therefore the conclusion reached in recitals 151 to 153 of the provisional Regulation that the Union industry suffered material injury within the meaning of Article 8(5) of the basic Regulation is confirmed.

6. CAUSATION

6.1. Introduction

- (47) In accordance with Articles 8(5) and Article 8(6) of the basic Regulation, it was examined whether the subsidised imports originating in India have caused injury to the Union industry to a degree that enables it to be classified as material. Known factors other than the subsidised imports, which could at the same time be injuring the Union industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the subsidised imports.
- (48) As explained in recitals 18 to 21 above, the subsidy margin of the largest Indian exporting producer, accounting for 87 % of all Indian exports to the Union in the IP, was found to be *de minimis* for this individual exporting producer in the meaning of Article 14(5) of the Basic Regulation, consequently considered as non-subsidised for the purpose of this investigation. Therefore, only a mere 13 % of the Indian exports of the product concerned to the Union during the IP were subsidised. These subsidised imports had a market share of 2 % in the IP.

6.2. Effect of the subsidised imports

- (49) The investigation showed that the Union consumption increased by 9 % over the period considered, while sales volume of the Union industry decreased by 14 % and market share dropped by 21 %.
- (50) With regard to prices, the average import prices of the subsidised imports were found to undercut the average sales prices of the Union industry on the Union market. However, they were around 12 % higher than the prices of the Indian company not found to be subsidised.
- (51) Based on the above, it is considered that the limited import volume of the subsidised imports from India, which had higher prices than the non-subsidised imports, may only have played a very limited role, if any, in the deterioration of the injurious situation of the Union industry.

6.3. Effect of other factors

6.3.1. Non-subsidised imports from India

- (52) The total volume of imports from India increased dramatically by 65 % over the period considered, increasing their market share from 12,1 % to 18,3 %. However, as explained above, non-subsidised imports represented 87 % of the total Indian export volume in

the IP, corresponding to a market share of 15 % in the IP, as opposed to the market share of 2 % of the subsidised imports from India in the same period.

- (53) Prices of imports from India decreased overall by 9 % in the period considered, remaining always lower than import prices from the rest of the world and sales prices of the Union industry. However, it is noteworthy that, as explained in recital (50), the average prices of the non-subsidised imports were found to undercut the prices of the Union industry much more than those of the subsidised imports.

6.3.2. Imports from other third countries

- (54) In the absence of any comments concerning imports from other third countries recitals 161 to 165 of the provisional Regulation are hereby confirmed.

6.3.3. Economic crisis

- (55) In the absence of any comments concerning the impact of the economic crisis on the injury suffered by the Union industry, recitals 166 to 169 of the provisional Regulation are hereby confirmed.

6.3.4. Export performance of the sampled Union industry

- (56) In the absence of any comments concerning the export performance of the sampled Union industry, recital 170 of the provisional Regulation is hereby confirmed.

6.4. Conclusion on causation

- (57) The above analysis demonstrated that over the period considered there was a substantial increase in the volume and market share of the low-priced imports originating in India. It was also found that these imports were constantly undercutting the prices charged by the Union industry on the Union market.
- (58) However, in view of the finding that exports by the largest Indian exporting producer, which represented 87 % of the Indian exports to the Union in the IP, were not subsidised, it is considered that a causal link between the subsidised imports, accounting for a mere 13 % of the total quantity exported from India, and the injury suffered by the Union industry cannot be sufficiently established. Indeed, it cannot be argued that the subsidised Indian exports, in view of their limited volume and very limited market share (2 %) and the fact that their prices were on average 12 % higher than those of the non-subsidised imports, would be causing the injury suffered by the Union industry.

- (59) The analysis of the other known factors, which could have caused injury to the Union industry, including the non-subsidised imports, imports from other third countries, the economic crisis and the export performance of the sampled Union industry showed that the injury suffered by the Union industry is due to the impact of the non-subsidised imports from India which represented 87 % of all Indian exports to the Union in the IP and which were made at significantly lower prices than the subsidised imports.

7. TERMINATION OF THE ANTI-SUBSIDY PROCEEDING

- (60) In the absence of a material causal link between the subsidised imports and the injury suffered by the Union industry, it is considered that countervailing measures are unnecessary and therefore the present anti-subsidy proceeding should be terminated in accordance with Article 14(2) of the basic Regulation.
- (61) The complainant and all other interested parties were informed accordingly and were given the opportunity to comment. The comments received did not alter the conclusion that the present anti-subsidy proceeding should be terminated,

HAS ADOPTED THIS DECISION:

Article 1

The anti-subsidy proceeding concerning imports of certain stainless steel fasteners and parts thereof, currently falling within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61 and 7318 15 70, originating in India, is hereby terminated.

Article 2

Amounts secured by way of provisional countervailing duties pursuant to Regulation (EU) No 115/2012 on imports of certain stainless steel fasteners and parts thereof originating in India shall be released.

Article 3

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

Done at Brussels, 23 May 2012.

For the Commission

The President

José Manuel BARROSO

2012/278/EU:

- ★ **Commission Decision of 23 May 2012 terminating the anti-subsidy proceeding concerning imports of certain stainless steel fasteners and parts thereof originating in India 31**

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