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II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) No 21/2013

of 10 January 2013

extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 791/2011 on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China to imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not

THE COUNCIL OF THE EUROPEAN UNION,

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 Article 13 thereof,

Having regard to the proposal from the European Commission,

Whereas:

1. PROCEDURE

1.1. Existing measures

(1) By Implementing Regulation (EU) No 791/2011 ⁽²⁾ ('the original Regulation') the Council imposed a definitive anti-dumping duty of 62,9 % on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China ('the PRC') for all other companies than the ones mentioned in Article 1(2) and Annex I to that Regulation. These measures will hereinafter be referred to as 'the measures in force' and the investigation that led to the measures imposed by the original Regulation will be hereinafter referred to as 'the original investigation'.

1.2. Request

(2) On 10 April 2012, the European Commission ('the Commission') 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 PRC 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.

(3) The request was lodged by Saint-Gobain Adfors CZ s.r.o., Tolnatek Fonalfeldolgozo és Muszakiszovet-gyarto Bt., Valmieras 'Stikla Skiedra' AS and Vitruvan Technical Textiles GmbH, four Union producers of certain open mesh fabrics of glass fibres.

(4) The request contained sufficient prima facie evidence that following the imposition of the measures in force, a significant change in the pattern of trade involving exports from the PRC, Taiwan and Thailand to the Union occurred, for which there was insufficient due cause or economic justification other than the imposition of the measures in force. This change in the pattern of trade stemmed allegedly from the transshipment of certain open mesh fabrics of glass fibres originating in the PRC via Taiwan and Thailand.

(5) Furthermore, the evidence pointed to the fact that the remedial effects of the measures in force were being undermined both in terms of quantity and price. The evidence showed that these increased imports from Taiwan and Thailand were made at prices below the non-injurious price established in the original investigation.

(6) Finally, there was evidence that prices of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand were dumped in relation to the normal value established during the original investigation.

1.3. Initiation

(7) Having determined, after consulting the Advisory Committee, that sufficient prima facie evidence existed for the initiation of an investigation pursuant to Articles 13(3) and 14(5) of the basic Regulation, the Commission, initiated an investigation by Commission

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ L 204, 9.8.2011, p. 1.

Regulation (EU) No 437/2012⁽³⁾ ('the initiating Regulation'). Pursuant to Articles 13(3) and 14(5) of the basic Regulation the Commission, by the initiating Regulation, also directed the customs authorities to register imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand.

1.4. Investigation

- (8) The Commission officially advised the authorities of the PRC, Taiwan and Thailand, the exporting producers in those countries, the importers in the Union known to be concerned and the Union industry of the initiation of the investigation. Questionnaires were sent to the known producers/exporters in the PRC, Taiwan and Thailand known to the Commission from the request or through the Taipei Representative Office and the Mission of the Kingdom of Thailand to the European Union. Questionnaires were also sent to importers in the Union named in the request. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that non-cooperation might lead to the application of Article 18 of the basic Regulation and to findings being based on the facts available.
- (9) The anti-circumvention questionnaire was sent to eight companies in Taiwan and to seven companies in Thailand. Some Taiwanese and Thai companies came forward and claimed that they do not want to be considered as interested parties as they do not produce the product under investigation and/or do not have any exports to the Union. The remaining known companies from the two countries concerned did not come forward at all. None of the companies submitted a reply to the questionnaire. The anti-circumvention questionnaire was also sent to 44 companies in the PRC. However, those exporting producers in the PRC neither came forward nor submitted a reply to the questionnaire. Questionnaires were also sent to importers in the Union but none of them came forward nor did they submit replies to the questionnaire.

1.5. Investigation period

- (10) The investigation period covered the period from 1 January 2009 to 31 March 2012 ('the IP'). Data were collected for the IP to investigate, inter alia, the alleged change in the pattern of trade. More detailed data were collected for the reporting period from 1 April 2011 to 31 March 2012 ('the RP') in order to examine the possible undermining of the remedial effect of the measures in force and existence of dumping.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

- (11) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of circumvention was

made by analysing successively whether there was a change in the pattern of trade between the PRC, Taiwan, Thailand and the Union; if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty; if there was evidence of injury or that the remedial effects of the duty were being undermined in terms of the prices and/or quantities of the product under investigation; and whether there was evidence of dumping in relation to the normal values previously established in the original investigation, if necessary in accordance with the provisions of Article 2 of the basic Regulation.

2.2. Product concerned and the product under investigation

- (12) The product concerned is as defined in the original investigation: 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 35 g/m², excluding fibreglass discs, originating in the People's Republic of China, currently falling within CN codes ex 7019 51 00 and ex 7019 59 00.
- (13) 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.
- (14) The investigation showed that open mesh fabrics of glass fibres, as defined above, exported from the PRC to the Union and those consigned from Taiwan and Thailand to the Union have the same basic physical and technical characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Degree of cooperation and determination of the trade volumes

Taiwan

- (15) As stated in recital 9, none of the companies submitted a reply to the questionnaire, i.e. there was no cooperation from the Taiwanese exporting producers, and consequently no on the spot verification visits were carried out. The findings in respect of imports of certain open mesh fabrics of glass fibres from Taiwan into the Union and exports of the product concerned from the PRC to Taiwan had to be made on the basis of facts available in accordance with Article 18(1) of the basic Regulation. In this case Comext data was used to determine overall import volumes from Taiwan to the Union and Chinese national statistics were used for the determination of the overall exports from the PRC to Taiwan.

⁽³⁾ OJ L 134, 24.5.2012, p. 12.

Thailand

- (16) The Thai exporting producers did not cooperate either as they also did not submit replies to the questionnaire, thus no on the spot verification visits were carried out. The findings in respect of imports of certain open mesh fabrics of glass fibres from Thailand into the Union and exports of the product concerned from the PRC to Thailand had to be made on the basis of facts available in accordance with Article 18(1) of the basic Regulation. In this case Comext data was used to determine overall import volumes from Thailand to the Union and Chinese national statistics were used for the determination of the overall exports from the PRC to Thailand.

The People's Republic of China

- (17) There was no cooperation from the Chinese exporting producers. Therefore, findings in respect of imports of the product concerned into the Union and exports of certain open mesh fabrics of glass fibres from the PRC to Taiwan and Thailand had to be made on the basis of facts available in accordance with Article 18(1) of the basic Regulation. In this case Comext data was again used to determine overall import volumes from the PRC to the Union. Chinese national statistics were used for the determination of the overall exports from the PRC to Taiwan and Thailand.
- (18) The import volume recorded in Comext statistics covers a larger product group than the product concerned and the product under investigation. However, based on estimates provided by the Union industry, it could be established that a significant part of this import volume covered the product concerned and the product under investigation. Accordingly, the data could be used to establish a change in the pattern of trade.

2.4. Change in the pattern of trade

Imports of certain open mesh fabrics of glass fibres into the Union

- (19) Imports of the product concerned from the PRC to the Union dropped dramatically subsequent to the imposition of the provisional measures in February 2011 ⁽⁴⁾ and of the definitive measures in August 2011 by the original Regulation.

Taiwan

- (20) Total exports of the product under investigation from Taiwan to the Union increased significantly in 2011 and particularly following the imposition of the definitive measures in August 2011. Based on Comext data, exports from Taiwan to the Union surged suddenly in the second semester of 2011 whereas they were at insignificant levels in previous years. Those imports exploded further in the quarter January-March 2012, following the

initiation in November 2011 of the anti-circumvention investigation on open mesh fabrics originating in the PRC and consigned via Malaysia ⁽⁵⁾. That trend is confirmed by the corresponding Chinese statistics with regard to exports of open mesh fabrics of glass fibres to Taiwan from the PRC.

Thailand

- (21) As far as Thailand is concerned, the total exports to the Union of the product under investigation also increased sharply in 2011. Based on Comext data, exports from Thailand to the Union exploded in the quarter June-August 2011 whereas they were insignificant in previous years. Those imports also present a further surge in the quarter January-March 2012, following the initiation in November 2011 of the anti-circumvention investigation on open mesh fabrics originating in the PRC and consigned via Malaysia ⁽⁶⁾. That trend is confirmed by the corresponding Chinese statistics with regard to exports of open mesh fabrics of glass fibres to Thailand from the PRC.
- (22) Table 1 shows import quantities of certain open mesh fabrics of glass fibres from the PRC, Taiwan and Thailand into the Union from 1 January 2009 to 31 March 2012.

Table 1

Import volumes (millions of m ²)	2009	2010	2011	1.4.2011- 31.3.2012
PRC	294,90	383,72	193,07	121,30
Taiwan	1,33	1,03	10,67	17,07
Thailand	0,66	0,04	10,40	24,11

Source: Comext statistics.

The Comext data is provided in kilograms while the measurement of the product concerned is in square meters. The Union Industry provided conversion rates for the two codes covered by the proceeding which were used to calculate the figures in the Tables.

- (23) The data clearly show that imports from Taiwan and Thailand into the Union were negligible in 2009 and 2010. However, in 2011, following the imposition of the measures, imports surged suddenly and partly replaced the exports from the PRC on the Union market in terms of volume. Moreover, since the imposition of the measures in force, the decrease of the exports from the PRC to the Union has been significant (70 %).

⁽⁴⁾ OJ L 43, 17.2.2011, p. 9.

⁽⁵⁾ OJ L 292, 10.11.2011, p. 4.

⁽⁶⁾ See footnote 5.

Exports from the PRC to Taiwan and Thailand

- (24) A dramatic increase of exports of open mesh fabrics of glass fibres can be observed from the PRC to Taiwan within the same period. From a relatively small number in 2009 (748 000 m²), exports surged to 14,39 million m² in the RP.
- (25) Table 2 shows exports of open mesh fabrics of glass fibres from the PRC to Taiwan from 1 January 2009 to 31 March 2012.

Table 2

Taiwan	2009	2010	2011	1.4.2011-31.3.2012
Quantity (million m ²)	0,75	2,45	7,58	14,39
Yearly change (%)		227	209	90
Index (2009 = 100)	100	327	1 011	1 919

Source: Chinese statistics.

- (26) The same trend can be observed for the exports of open mesh fabrics of glass fibres from the PRC to Thailand. The export volume in 2009 was only 1,83 million m² while in the RP exploded to 41,70 million m².
- (27) Table 3 shows exports of open mesh fabrics of glass fibres from the PRC to Thailand from 1 January 2009 to 31 March 2012.

Table 3

Thailand	2009	2010	2011	1.4.2011-31.3.2012
Quantity (million m ²)	1,83	9,80	25,51	41,70
Yearly change (%)		436	160	63
Index (2009 = 100)	100	535	1 394	2 279

Source: Chinese statistics.

- (28) To establish the trend of the trade flow of certain open mesh fabrics of glass fibres from the PRC to Taiwan and Thailand, Chinese statistics were considered, although they were only available at a higher product group level than the product concerned. In view of Comext data and the estimates provided by the Union industry on the volumes classified under the two CN codes ex 7019 51 00 and ex 7019 59 00, it could however be

established that the product concerned covers a significant part of the Chinese statistics. Therefore, those data could be taken into account.

- (29) Tables 1 to 3 clearly demonstrate that the sharp drop of Chinese exports of open mesh fabrics of glass fibres to the Union was followed by a significant increase of Chinese exports of open mesh fabrics of glass fibres to Taiwan and Thailand and a subsequent drastic increase of Taiwanese and Thai exports of open mesh fabrics of glass fibres to the Union in the RP.

Production volumes in Taiwan and Thailand

- (30) As there was no cooperation from the companies in Taiwan and Thailand, no information could be obtained on the possible levels of the genuine production of the product under investigation in these two countries.

2.5. Conclusion on the change in the pattern of trade

- (31) The overall decrease of the exports from the PRC to the Union and the parallel increase of both exports from Taiwan and Thailand to the Union and of exports from the PRC to Taiwan and Thailand respectively, following the imposition of provisional measures in February 2011 and of definitive measures in August 2011, constitutes a change in the pattern of trade between those countries, on the one hand, and of the exports of those countries to the Union, on the other hand.

2.6. Nature of the circumvention practice

- (32) Article 13(1) of the basic Regulation requires that the change in the pattern of trade stem from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty. The practice, process or work includes, inter alia, the consignment of the product subject to measures via third countries.

Transshipment

- (33) The Commission has evidence regarding business contacts of Chinese operators with importers in the Union which confirm the existence of transshipment practices via Thailand. In addition the lack of cooperation by any of the producers of the product under investigation in Taiwan and Thailand points to transshipment practices taking place in those countries with regard to open mesh fabrics of glass fibres. Moreover, the recent surge in imports from those two countries indicates that it is due to Taiwanese and Thai traders transshipping Chinese products to the Union.
- (34) The existence of transshipment of Chinese-origin products via Taiwan and Thailand is therefore confirmed.

2.7. Insufficient due cause or economic justification other than the imposition of the anti-dumping duty

- (35) The investigation did not bring to light any due cause or economic justification for the transshipment other than the avoidance of the measures in force on the product concerned. No elements were found, other than the duty, which could be considered as a compensation for the costs of transshipment, in particular regarding transport and reloading, of certain open mesh fabrics of glass fibres originating in the PRC via Taiwan and Thailand.

2.8. Undermining of the remedial effect of the anti-dumping duty

- (36) To assess whether the imported product under investigation had, in terms of quantities and prices, undermined the remedial effects of the measures in force on imports of the product concerned, Comext data was used as the best data available concerning quantities and prices of exports by the non-cooperating companies in Taiwan and Thailand. The prices so determined were compared to the injury elimination level established for Union producers in recital 74 of the original Regulation.
- (37) The increase of imports from Taiwan to the Union from 1,03 million m² in 2010 to 17,07 million m² in the RP was considered to be significant in terms of quantity.
- (38) Also, the increase of imports from Thailand to the Union from 40 000 m² in 2010 to 24,11 million m² in the RP was considered to be substantial in terms of quantity.
- (39) The comparison of the injury elimination level as established in the original Regulation and the weighted average export price (determined in this investigation for Taiwan and Thailand respectively and adjusted for post-importation costs and quality adjustments established in the original investigation) showed significant underselling for both countries concerned. It was therefore concluded that the remedial effects of the measures in force are being undermined in terms of both quantities and prices.

2.9. Evidence of dumping

- (40) Finally, in accordance with Article 13(1) of the basic Regulation it was examined whether there was evidence of dumping in relation to the normal value previously established in the original investigation.
- (41) In the original Regulation the normal value was established on the basis of prices in Canada, which in that investigation was found to be an appropriate market economy analogue country for the PRC. In line with Article 13(1) of the basic Regulation it was considered appropriate to use the normal value as previously established in the original investigation.

- (42) The export prices from Taiwan and Thailand, respectively, were based on facts available, i.e. on the average export price of certain open mesh fabrics of glass fibres during the RP as reported in Comext. The use of facts available was due to the lack of cooperation by any producer of the product under investigation in the two countries concerned.
- (43) For the purpose of a fair comparison between the normal value and the export price, due allowance, in the form of adjustments, was made for differences which affect prices and price comparability in accordance with Article 2(10) of the basic Regulation. Accordingly, adjustments were made for differences in transport, insurance and packing costs. Given that there was no cooperation from the producers in Taiwan, Thailand and the PRC, the adjustments had to be established on the basis of the best facts available. Thus, the adjustment for those allowances was based on a percentage calculated as the proportion of the total transport, insurance and packing costs over the value of the sales transactions to the Union with CIF delivery terms provided by the cooperating Chinese exporting producers in the original investigation.
- (44) In accordance with Article 2(11) and 2(12) of the basic Regulation, dumping was calculated by comparing the weighted average normal value as established in the original Regulation and the corresponding weighted average export prices of the two countries concerned during this investigation's RP, expressed as a percentage of the CIF price at the Union frontier duty unpaid.
- (45) The comparison of the weighted average normal value and the weighted average export price as established showed dumping.

3. MEASURES

- (46) Given the above, it was concluded that the definitive anti-dumping duty imposed on imports of certain open mesh fabrics of glass fibres originating in the PRC was circumvented by transshipment via Taiwan and Thailand pursuant to Article 13(1) of the basic Regulation.
- (47) In accordance with the first sentence of Article 13(1) of the basic Regulation, the measures in force on imports of the product concerned, should be extended to imports of the product under investigation, i.e. the same product but consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not.
- (48) In light of the non-cooperation in this investigation, the measures to be extended should be the measures established in Article 1(2) of the original Regulation for 'all other companies', which is presently a definitive anti-dumping duty of 62,9 % applicable to the net, free-at-Union-frontier price, before duty.

- (49) In accordance with Articles 13(3) and 14(5) of the basic Regulation, which provides that any extended measure should apply to imports which entered the Union under registration imposed by the initiating Regulation, duties should be collected on those registered imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand.

4. REQUESTS FOR EXEMPTION

- (50) As stated in recital 9 none of the producers in the two countries concerned came forward following initiation. Accordingly, no requests for exemption from the possible extension of the measures in accordance with Article 13(4) of the basic Regulation were made.
- (51) Without prejudice to Article 11(3) of the basic Regulation, the producers in Taiwan and Thailand which did not come forward in this proceeding and did not export the product under investigation to the Union in the RP and which consider lodging a request for an exemption from the extended anti-dumping duty pursuant to Articles 11(4) and 13(4) of the basic Regulation will be required to complete a questionnaire in order to enable the Commission to determine whether an exemption may be warranted. Such exemption may be granted after the assessment of the market situation, production capacity and capacity utilisation, procurement and sales and the likelihood of continuation of practices for which there is insufficient due cause or economic justification and the evidence of dumping. The Commission would normally also carry out an on-the-spot verification visit. The request should be addressed to the Commission, with all relevant information, in particular any modification in the company's activities linked to the production and sales.
- (52) Where an exemption is warranted, the Commission will, after consultation of the Advisory Committee, propose the amendment of the extended measures in force accordingly. Subsequently, any exemption granted will be monitored to ensure compliance with the conditions set out therein.

5. DISCLOSURE

- (53) All interested parties were informed of the essential facts and considerations leading to the above conclusions and were invited to comment. Following disclosure, comments were received from the Department of Foreign Trade in the Ministry of Commerce of Thailand. They requested to take into consideration the Thai import and export statistics of open mesh fabrics of glass fibres as well. The statistics provided by the Thai authorities were taken into consideration and proved to be a useful source of information. However, they were finally not used for the definitive findings as, Comext data and Chinese national statistics showed more coherent trends. Thus the arguments presented did not give rise to a modification of the definitive findings,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty applicable to 'all other companies' imposed by Article 1(2) of Implementing Regulation (EU) No 791/2011 on imports 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 35 g/m², excluding fibreglass discs, originating in the People's Republic of China, is hereby extended to imports 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 35 g/m², excluding fibreglass discs, consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not, currently falling 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).

2. The duty extended by paragraph 1 of this Article shall be collected on imports consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not, registered in accordance with Article 2 of Regulation (EU) No 437/2012 and Articles 13(3) and 14(5) of Regulation (EC) No 1225/2009.

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

Article 2

1. Requests for exemption from the duty extended by Article 1 shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate H
Office: N-105 08/20
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Fax +32 22956505

2. In accordance with Article 13(4) of Regulation (EC) No 1225/2009, the Commission, after consulting the Advisory Committee, may authorise, by decision, the exemption of imports from companies which do not circumvent the anti-dumping measures imposed by Implementing Regulation (EU) No 791/2011, from the duty extended by Article 1.

Article 3

Customs authorities are hereby directed to discontinue the registration of imports, established in accordance with Article 2 of Regulation (EU) No 437/2012.

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, 10 January 2013.

For the Council

The President

E. GILMORE

COMMISSION IMPLEMENTING REGULATION (EU) No 22/2013**of 15 January 2013****approving the active substance cyflumetofen, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011****(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 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 13(2) and Article 78(2) thereof,

Whereas:

- (1) In accordance with Article 80(1)(a) of Regulation (EC) No 1107/2009, Council Directive 91/414/EEC ⁽²⁾ is to apply, with respect to the procedure and the conditions for approval, to active substances for which a decision has been adopted in accordance with Article 6(3) of that Directive before 14 June 2011. For cyflumetofen the conditions of Article 80(1)(a) of Regulation (EC) No 1107/2009 are fulfilled by Commission Decision 2010/244/EU ⁽³⁾.
- (2) In accordance with Article 6(2) of Directive 91/414/EEC the Netherlands received on 21 September 2009 an application from Otsuka Chemical Co. Ltd for the inclusion of the active substance cyflumetofen in Annex I to Directive 91/414/EEC. Decision 2010/244/EU confirmed that the dossier was 'complete' in the sense that it could be considered as satisfying, in principle, the data and information requirements of Annexes II and III to Directive 91/414/EEC.
- (3) For that active substance, the effects on human and animal health and the environment have been assessed, in accordance with the provisions of Article 6(2) and (4) of Directive 91/414/EEC, for the uses proposed by the applicant. The designated rapporteur Member State submitted a draft assessment report on 12 November 2010.
- (4) The draft assessment report was reviewed by the Member States and the European Food Safety Authority (hereinafter 'the Authority'). The Authority presented to the Commission its conclusion on the review of the pesticide risk assessment of the active substance cyflumetofen ⁽⁴⁾ on 16 December 2011. The draft assessment report and the conclusion of the Authority were reviewed by the Member States and the Commission within the

Standing Committee on the Food Chain and Animal Health and was finalised on 20 November 2012 in the format of the Commission review report for cyflumetofen.

- (5) It has appeared from the various examinations made that plant protection products containing cyflumetofen may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) and Article 5(3) of Directive 91/414/EEC, in particular with regard to the uses which were examined and detailed in the Commission review report. It is therefore appropriate to approve cyflumetofen.
- (6) In accordance with Article 13(2) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is, however, necessary to include certain conditions and restrictions. It is, in particular, appropriate to require further confirmatory information.
- (7) A reasonable period should be allowed to elapse before approval in order to permit Member States and the interested parties to prepare themselves to meet the new requirements resulting from the approval.
- (8) Without prejudice to the obligations provided for in Regulation (EC) No 1107/2009 as a consequence of approval, taking into account the specific situation created by the transition from Directive 91/414/EEC to Regulation (EC) No 1107/2009, the following should, however, apply. Member States should be allowed a period of six months after approval to review authorisations of plant protection products containing cyflumetofen. Member States should, as appropriate, vary, replace or withdraw authorisations. By way of derogation from that deadline, a longer period should be provided for the submission and assessment of the update of the complete Annex III dossier, as set out in Directive 91/414/EEC, of each plant protection product for each intended use in accordance with the uniform principles.
- (9) The experience gained from inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market ⁽⁵⁾ has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ OJ L 230, 19.8.1991, p. 1.

⁽³⁾ OJ L 107, 29.4.2010, p. 22.

⁽⁴⁾ EFSA Journal 2012; 10(1):2504. Available online: www.efsa.europa.eu

⁽⁵⁾ OJ L 366, 15.12.1992, p. 10.

an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the Directives which have been adopted until now amending Annex I to that Directive or the Regulations approving active substances.

- (10) In accordance with Article 13(4) of Regulation (EC) No 1107/2009, the Annex to Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances⁽¹⁾ should be amended accordingly.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Approval of active substance

The active substance cyflumetofen, as specified in Annex I, is approved subject to the conditions laid down in that Annex.

Article 2

Re-evaluation of plant protection products

1. Member States shall in accordance with Regulation (EC) No 1107/2009, where necessary, amend or withdraw existing authorisations for plant protection products containing cyflumetofen as an active substance by 30 November 2013.

By that date they shall in particular verify that the conditions in Annex I to this Regulation are met, with the exception of those identified in the column on specific provisions of that Annex, and that the holder of the authorisation has, or has access to, a dossier satisfying the requirements of Annex II to Directive 91/414/EEC in accordance with the conditions of Article 13(1) to (4) of that Directive and Article 62 of Regulation (EC) No 1107/2009.

2. By way of derogation from paragraph 1, for each authorised plant protection product containing cyflumetofen as either the only active substance or as one of several active substances, all of which were listed in the Annex to Implementing Regulation (EU) No 540/2011 by 31 May 2013 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, on the basis of a dossier satisfying the requirements of Annex III to Directive 91/414/EEC and taking into account the column on specific provisions of Annex I to this Regulation. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 29(1) of Regulation (EC) No 1107/2009.

Following that determination Member States shall:

- (a) in the case of a product containing cyflumetofen as the only active substance, where necessary, amend or withdraw the authorisation by 30 November 2014 at the latest; or
- (b) in the case of a product containing cyflumetofen as one of several active substances, where necessary, amend or withdraw the authorisation by 30 November 2014 or by the date fixed for such an amendment or withdrawal in the respective act or acts which added the relevant substance or substances to Annex I to Directive 91/414/EEC or approved that substance or those substances, whichever is the latest.

Article 3

Amendments to Implementing Regulation (EU) No 540/2011

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with Annex II to this Regulation.

Article 4

Entry into force and date of application

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

It shall apply from 1 June 2013.

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

Done at Brussels, 15 January 2013.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 153, 11.6.2011, p. 1.

ANNEX I

Common name, identification numbers	IUPAC name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
Cyflumetofen CAS No 400882-07-7 CIPAC No 721	2-methoxyethyl (RS)-2-(4- <i>tert</i> -butylphenyl)- 2-cyano-3-oxo-3-(<i>a,a,a</i> -trifluoro- <i>o</i> -tolyl) propionate	≥ 975 g/kg (racemic)	1 June 2013	31 May 2023	For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on cyflumetofen, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 20 November 2012 shall be taken into account. In this overall assessment Member States shall pay particular attention to: — the protection of operators and workers; — the protection of groundwater, when the substance is applied in regions with vulnerable soils and/or climatic conditions; — the protection of drinking water; — the risk to aquatic organisms. Conditions of use shall include risk mitigation measures, where appropriate. The applicant shall submit confirmatory information as regards: (a) the possible mutagenic potential of the metabolite B3 (2-(trifluoromethyl) benzamide), by excluding an <i>in vivo</i> relevance of observed <i>in vitro</i> effects via an appropriate test protocol; (b) additional information to establish an ARfD for metabolite B3; (c) further ecotoxicological studies and assessments for aquatic vertebrates that cover their full life-cycle. The applicant shall submit to the Commission, the Member States and the Authority that information by 31 May 2015.

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

ANNEX II

In Part B of the Annex to Implementing Regulation (EU) No 540/2011, the following entry is added:

Number	Common name, identification numbers	IUPAC name	Purity (*)	Date of approval	Expiration of approval	Specific provisions
'31	Cyflumetofen CAS No 400882-07-7 CIPAC No 721	2-methoxyethyl (<i>RS</i>)-2-(4- <i>tert</i> - butylphenyl)-2- cyano-3-oxo-3- (<i>α,α,α</i> -trifluoro- <i>o</i> - tolyl)propionate	≥ 975 g/kg (racemic)	1 June 2013	31 May 2023	For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on cyflumetofen, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 20 November 2012 shall be taken into account. In this overall assessment Member States shall pay particular attention to: — the protection of operators and workers; — the protection of groundwater, when the substance is applied in regions with vulnerable soils and/or climatic conditions; — the protection of drinking water; — the risk to aquatic organisms. Conditions of use shall include risk mitigation measures, like the use of personal protection equipment, where appropriate. The applicant shall submit confirmatory information as regards: (a) the possible mutagenic potential of the metabolite B3 (2-(trifluoromethyl) benzamide), by excluding an <i>in vivo</i> relevance of observed <i>in vitro</i> effects by an appropriate test protocol (<i>in vivo</i> Comet assay); (b) additional information to establish an ARfD for metabolite B3; (c) further ecotoxicological studies and assessments for aquatic vertebrates that cover their full life-cycle. The applicant shall submit to the Commission, the Member States and the Authority that information by 31 May 2015.'

(*) Further details on identity and specification of active substance are provided in the review report.

COMMISSION IMPLEMENTING REGULATION (EU) No 23/2013**of 15 January 2013****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, 15 January 2013.

*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	MA	62,1
	TN	102,6
	TR	130,0
	ZZ	98,2
0707 00 05	EG	194,1
	TR	130,5
	ZZ	162,3
0709 91 00	EG	158,2
	ZZ	158,2
0709 93 10	MA	104,4
	TR	132,7
	ZZ	118,6
0805 10 20	EG	54,9
	MA	59,8
	TR	63,5
	ZA	103,6
	ZZ	70,5
0805 20 10	IL	162,4
	MA	95,8
	ZZ	129,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	IL	113,9
	KR	140,9
	TR	94,1
	ZZ	116,3
0805 50 10	TR	76,9
	ZZ	76,9
0808 10 80	BA	47,0
	CN	99,8
	MK	38,5
	US	183,6
	ZZ	92,2
0808 30 90	CN	65,3
	US	134,8
	ZZ	100,1

⁽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 24/2013
of 15 January 2013
fixing the import duties in the cereals sector applicable from 16 January 2013

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 (EU) No 642/2010 of 20 July 2010 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of import duties in the cereals sector ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

(1) Article 136(1) of Regulation (EC) No 1234/2007 states that the import duty on products covered by CN codes 1001 19 00, 1001 11 00, ex 1001 91 20 (common wheat seed), ex 1001 99 00 (high quality common wheat other than for sowing), 1002 10 00, 1002 90 00, 1005 10 90, 1005 90 00, 1007 10 90 and 1007 90 00 is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.

(2) Article 136(2) of Regulation (EC) No 1234/2007 lays down that, in order to calculate the import duty

referred to in paragraph 1 of that Article, representative cif import prices are to be established on a regular basis for the products in question.

(3) Under Article 2(2) of Regulation (EU) No 642/2010, the price to be used for the calculation of the import duty on products covered by CN codes 1001 19 00, 1001 11 00, ex 1001 91 20 (common wheat seed), ex 1001 99 00 (high quality common wheat other than for sowing), 1002 10 00, 1002 90 00, 1005 10 90, 1005 90 00, 1007 10 90 and 1007 90 00 is the daily cif representative import price determined as specified in Article 5 of that Regulation.

(4) Import duties should be fixed for the period from 16 January 2013 and should apply until new import duties are fixed and enter into force.

(5) 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

From 16 January 2013, the import duties in the cereals sector referred to in Article 136(1) of Regulation (EC) No 1234/2007 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

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, 15 January 2013.

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 187, 21.7.2010, p. 5.

ANNEX I

Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 16 January 2013

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 19 00 1001 11 00	Durum wheat, high quality	0,00
	medium quality	0,00
	low quality	0,00
ex 1001 91 20	Common wheat seed	0,00
ex 1001 99 00	High quality common wheat other than for sowing	0,00
1002 10 00 1002 90 00	Rye	0,00
1005 10 90	Maize seed other than hybrid	0,00
1005 90 00	Maize other than seed ⁽²⁾	0,00
1007 10 90 1007 90 00	Grain sorghum other than hybrids for sowing	0,00

⁽¹⁾ The importer may benefit, under Article 2(4) of Regulation (EU) No 642/2010, from a reduction in the duty of:

- EUR 3/t, where the port of unloading is located on the Mediterranean Sea (beyond the Strait of Gibraltar) or on the Black Sea, for goods arriving in the Union via the Atlantic Ocean or the Suez Canal,
- EUR 2/t, where the port of unloading is located in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or on the Atlantic coast of the Iberian Peninsula, for goods arriving in the Union via the Atlantic Ocean.

⁽²⁾ The importer may benefit from a flat-rate reduction of EUR 24/t where the conditions laid down in Article 3 of Regulation (EU) No 642/2010 are met.

ANNEX II

Factors for calculating the duties laid down in Annex I

2.1.2013-14.1.2013

1. Averages over the reference period referred to in Article 2(2) of Regulation (EU) No 642/2010:

(EUR/t)

	Common wheat ⁽¹⁾	Maize	Durum wheat, high quality	Durum wheat, medium quality ⁽²⁾	Durum wheat, low quality ⁽³⁾
Exchange	Minneapolis	Chicago	—	—	—
Quotation	250,05	208,35	—	—	—
Fob price USA	—	—	303,11	293,11	273,11
Gulf of Mexico premium	76,71	17,95	—	—	—
Great Lakes premium	—	—	—	—	—

⁽¹⁾ Premium of EUR 14/t incorporated (Article 5(3) of Regulation (EU) No 642/2010).⁽²⁾ Discount of EUR 10/t (Article 5(3) of Regulation (EU) No 642/2010).⁽³⁾ Discount of EUR 30/t (Article 5(3) of Regulation (EU) No 642/2010).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EU) No 642/2010:

Freight costs: Gulf of Mexico-Rotterdam: 14,22 EUR/t

Freight costs: Great Lakes-Rotterdam: — EUR/t

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