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II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) No 695/2013

of 15 July 2013

imposing a definitive anti-dumping duty on imports of ironing boards originating in the People's Republic of China, and repealing the anti-dumping measures on imports of ironing boards originating in Ukraine following an expiry review pursuant to Article 11(2) and a partial interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009

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 Articles 9(4) and 11(2), (3) and (6) thereof,

Having regard to the proposal submitted by the European Commission after consulting the Advisory Committee,

Whereas:

(2) By implementing Regulation (EU) No 270/2010 ⁽⁴⁾, the Council imposed a definitive anti-dumping duty on imports of ironing boards of Guangzhou Power Team Houseware Co. Ltd., a Chinese exporting producer of ironing boards.

(3) By implementing Regulation (EU) No 580/2010 ⁽⁵⁾, the Council amended the definitive anti-dumping duty in force with regard to imports of ironing boards originating in Ukraine to 7 %, following a partial interim review limited in scope to dumping pursuant to Article 11(3) of the basic Regulation.

(4) By implementing Regulation (EU) No 77/2010 ⁽⁶⁾, the Council imposed a definitive anti-dumping duty on imports of ironing boards of Greenwood Houseware (Zhuhai) Ltd Co, a Chinese exporting producer of ironing boards, following a new exporter review pursuant to Article 11(4) of the basic Regulation.

A. PROCEDURE

1. Measures in force

(1) By Regulation (EC) No 452/2007 ⁽²⁾, the Council imposed definitive anti-dumping duties ranging from 9,9 % to 38,1 % on imports of ironing boards originating in the People's Republic of China ('PRC' or 'China') and Ukraine; by implementing Regulation (EU) No 1243/2010 ⁽³⁾, the Council imposed a definitive anti-dumping duty on imports of ironing boards of Since Hardware (Guangzhou) Co, a Chinese exporting producer of ironing boards, following a new investigation pursuant to Article 5 of the basic Regulation ('the original investigations').

(5) By implementing Regulation (EU) No 805/2010 ⁽⁷⁾, the Council re-imposed a definitive anti-dumping duty on import of ironing boards of Foshan Shunde Yongjian Housewares and Hardware Co. Ltd, Foshan, a Chinese exporting producer of ironing boards, as a measure to comply with the judgment of the Court of Justice in case C-141/08 P ⁽⁸⁾.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ L 109, 26.4.2007, p. 12.

⁽³⁾ OJ L 338, 22.12.2010, p. 10.

⁽⁴⁾ OJ L 84, 31.3.2010, p. 13.

⁽⁵⁾ OJ L 168, 2.7.2010, p. 12.

⁽⁶⁾ OJ L 24, 28.1.2010, p. 24.

⁽⁷⁾ OJ L 242, 15.9.2010, p. 1.

⁽⁸⁾ OJ 2009/C 282/16.

- (6) By implementing Regulation (EU) No 987/2012 ⁽¹⁾, the Council re-imposed a definitive anti-dumping duty on imports of ironing boards originating in the People's Republic of China, manufactured by Zhejiang Harmonic Hardware Products Co. Ltd, as a measure to comply with the judgment of the Court of Justice in case T-274/07 ⁽²⁾.
- (7) The above investigations are hereinafter also referred to as 'the previous investigations'.

2. Requests for review

2.1. Expiry review of the anti-dumping measures in force against Ukraine and the PRC

- (8) Following the publication of a notice of impending expiry ⁽³⁾ of the anti-dumping measures in force, the Commission received on 25 January 2012 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of the basic Regulation.
- (9) The request was lodged by three Union producers representing a major proportion, in this case more than 40 % of the Union production of ironing boards ('the applicants of the expiry review').
- (10) The request for the expiry review related to all countries currently covered by the measures in force, namely the PRC and Ukraine, and was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping and injury to the Union industry.
- (11) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 25 April 2012 the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation, by a notice published in the Official Journal of the European Union ⁽⁴⁾ ('expiry review notice of initiation').

2.2. Partial interim review of the anti-dumping measures in force against Ukraine as far as the sole exporting producer in Ukraine is concerned

- (12) On 17 March 2012 the Commission received a request for the initiation of a partial interim review, limited in

scope to dumping, pursuant to Article 11(3) of the basic Regulation. The request was lodged by Eurogold Industries Ltd., the only exporting producer of the product concerned from Ukraine ('the applicant of the interim review').

- (13) According to the applicant of the interim review, the circumstances on the basis of which the measures have been established had changed and these changes were of lasting nature. On the basis of these changes it was alleged that the existing anti-dumping measures were no longer necessary to offset dumping.

- (14) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a partial interim review, the Commission initiated this review on 12 June 2012 ⁽⁵⁾ ('interim review notice of initiation').

3. Investigation

3.1. Expiry review

(a) Investigation period and period considered in the expiry review investigation

- (15) The investigation of dumping and injury for the expiry review covered the period from 1 January 2011 to 31 December 2011 ('the expiry review investigation period' or 'ERIP'). The examination of trends in the context of the analysis of injury covered the period from January 2008 to the end of the ERIP ('the period considered').

(b) Parties concerned by the investigation and sampling

- (16) The Commission officially advised the applicants, other known Union producers, exporting producers, importers, users in the Union known to be concerned and their associations, and the representatives of the exporting countries concerned of the initiation of the expiry review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time-limit set in the expiry notice of initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.
- (17) In view of the apparent large number of Chinese exporting producers and Union producers, sampling was envisaged in the expiry review notice of initiation in accordance with Article 17 of the basic Regulation.

⁽¹⁾ OJ L 297, 26.10.2012, p. 5.

⁽²⁾ OJ C 223, 22.9.2007.

⁽³⁾ OJ C 187, 28.6.2011, p. 21.

⁽⁴⁾ OJ C 120, 25.4.2012, p. 9.

⁽⁵⁾ OJ C 166, 12.6.2012, p. 3.

(18) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a representative sample, Chinese exporting producers were requested to make themselves known to the Commission and to provide the information specified in the expiry notice of initiation. Only two exporting producer in the PRC made themselves known and provided the Commission with the information requested in the expiry review notice of initiation. Therefore, sampling was not considered necessary.

(19) The sole Ukrainian exporting producer cooperated in the parallel partial interim review and requested that the data verified and collected in the context of the interim review are used for the purpose of this expiry review (see recital (31) below).

(20) The Commission announced in the expiry review notice of initiation that it had provisionally selected a sample of Union producers. This sample consisted of three companies, out of the estimated 20-30 Union producers that were known prior to the initiation of the investigation to produce the like product. The three sampled companies were selected on the basis of their sales and production volume of the like product in 2011 as well as their geographic location in the Union. The sample represented over 40 % of the total estimated Union production and sales during the ERIP and was therefore considered representative. Interested parties were invited to consult the file and to comment on the appropriateness of this choice within 15 days of the date of publication of the notice of initiation. No interested party commented on the proposed sample.

(21) No unrelated importers in the Union made themselves known and cooperated in the expiry review investigation.

(c) Questionnaires and verification

(22) The Commission sought and verified all the information it deemed necessary for the determination of the likelihood of a continuation or recurrence of dumping and resulting injury and for the determination of the Union interest.

(23) Questionnaires were sent to both Chinese exporting producers that came forward in the sampling exercise. Only one of these Chinese exporting producers cooperated and provided a questionnaire reply.

(24) Questionnaire replies were received from the three sampled Union producers. In addition, four cooperating Union producers provided general data for the injury analysis.

(25) Verification visits were carried out at the premises of the following companies:

— PRC

— Greenwood Houseware (Zhuhai) Limited, Guangdong, the PRC

— Brabantia S&S, Hong Kong

— Union producers

— Colombo New Scal SpA, Italy

— Rõrets Polska Spółka z.o.o., Poland

— Vale Mill (Rochdale) Ltd, United Kingdom

(26) In light of the need to establish a normal value for exporting producers in the PRC to which MET was not granted in the original investigations, a verification visit to establish normal value on the basis of data from an analogue country took place at the premises of the following company:

— Ukraine

— Eurogold Industries Ltd., Zhytomyr, Ukraine

(d) Disclosure

(27) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend imposing a definitive anti-dumping duty on imports of the product concerned originating in the PRC and to terminate the investigation concerning the anti-dumping measures applicable to imports of the product concerned originating in Ukraine. The parties were also granted a period within which they could make representations subsequent to this disclosure. No comments were received.

3.2. Partial interim review

(a) Investigation period in the interim review investigation

(28) The investigation period for the partial interim review pursuant to Article 11(3) of the basic Regulation concerning imports originating in Ukraine covered the period from 1 April 2011 to 31 March 2012 ('the interim review investigation period'). A less recent investigation period, such as the one used for the expiry review, would not have been consistent with the requirements of Article 6(1) of the basic Regulation. Furthermore, a similar investigation period has been used in a parallel refund proceeding.

(b) Parties concerned by the investigation

- (29) The Commission officially advised the applicant of the interim review and the representatives of the exporting country concerned of the initiation of the partial interim review. 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 interim review notice of initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(c) Questionnaires and verification

- (30) The Commission sought and verified all the information it deemed necessary for a determination of dumping of the applicant of the interim review and the need of continued imposition of the measures.
- (31) The applicant of the interim review represented all the imports of the product concerned from Ukraine. A questionnaire was sent to this company that cooperated and provided a questionnaire reply. A verification visit was carried out at the following premises:

— Ukraine

— Eurogold Industries Ltd., Zhytomyr, Ukraine

(d) Disclosure

- (32) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to terminate the investigation concerning the anti-dumping measures applicable to imports of the product concerned originating in Ukraine. The parties were also granted a period within which they could make representations subsequent to this disclosure. No comments were received.

B. PRODUCT CONCERNED AND LIKE PRODUCT

- (33) The product subject to both the expiry and the partial interim reviews is the same as that covered by Council Regulation (EC) No 452/2007 and Council Implementing Regulation (EU) No 1243/2010, namely ironing boards, whether or not free-standing, with or without a steam soaking and/or heating top and/or blowing top, including sleeve boards, and essential parts thereof, i.e. the legs, the top and the iron rest, originating in the People's Republic of China and Ukraine (the product concerned), currently falling within CN codes ex 3924 90 00, ex 4421 90 98, ex 7323 93 00, ex 7323 99 00, ex 8516 79 70 and ex 8516 90 00.

- (34) The current review investigations confirmed that, as in the original investigations, the product concerned and ironing boards produced and sold on the domestic markets in the countries concerned, ironing boards produced and sold by the Union industry on the Union market and those produced and sold on the analogue country market of Ukraine have the same basic physical and technical characteristics and the same basic uses.

- (35) Therefore these products are considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING, LIKELIHOOD OF A CONTINUATION AND/OR RECURRENCE OF DUMPING AND LASTING NATURE OF THE CHANGED CIRCUMSTANCES

1. Dumping - expiry review- the PRC

1.1. General remarks

- (36) As mentioned above, only one Chinese exporting producer cooperated in the investigation, representing only a negligible amount of total Chinese exports during the ERIP. The findings for this company were therefore not considered representative for the country.
- (37) Therefore, the Chinese authorities and non-cooperating Chinese exporting producers were notified of the application of Article 18(1) of the basic Regulation and were given an opportunity to present their comments in accordance with Article 18(4) of the basic Regulation. No comments were received in this regard.

- (38) In accordance with Article 18(1) of the basic Regulation, the findings in relation to dumping and likelihood of a continuation of dumping set out below had to be based on facts available, in particular, information in the request for the expiry review and the statistics available to the Commission found to be the most accurate, i.e. the monthly data transmitted by Member States under Article 14 (6) of the basic Regulation ('the 14.6 database'). Other statistical sources such as the Chinese export database and Eurostat (8 digits) were found unreliable as the respective custom codes covered other products than the product concerned.

1.2. Normal value

(a) Analogue country

- (39) According to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted market economy treatment (MET) has to be established on the basis of the domestic prices or constructed normal value in an analogue country.

(40) For this purpose, in the expiry review notice of initiation the Commission suggested Ukraine as analogue country. Ukraine was one of the countries used in the previous investigations as an appropriate market economy third country for the purpose of establishing a normal value in respect of the PRC. All interested parties were given the opportunity to comment on the choice of the analogue country envisaged. No comments were received in this regard.

(41) In addition, the Commission tried to obtain cooperation from other potential analogue countries, namely Malaysia, Bosnia and Herzegovina, India, Israel and Turkey. Only the Turkish authorities came forward with a list of known producers to be contacted, without indicating whether any of them would cooperate with the investigation. At the same time, the sole Ukrainian exporting producer agreed for its data submitted and verified in the context of the parallel interim review to be used for the purposes of the expiry review. The data is representative for the whole country.

(42) In the light of the above facts and of the requirements of Article 2(7)(a) of the basic Regulation, it was concluded that Ukraine was an appropriate analogue country.

(b) Determination of normal value in analogue country

(43) The sole Ukrainian exporting producer did not cooperate in the expiry review but it cooperated in the parallel partial interim review and made its data, collected and verified in the framework of the partial interim review, available for the purpose of the expiry review.

(44) Given the significant overlap between the expiry and interim investigation periods and considering that the Ukrainian exporter in question represented 100 % of the exports from Ukraine to the Union, normal value was therefore established on the basis of the data collected and verified in the framework of the parallel partial interim review (see recitals (77) to (83) below).

1.3. Export price

(45) The export price for the non-cooperating Chinese exporting producers was based on facts available in accordance with Article 18 of the basic Regulation. The export price was thus established on the basis of the import statistics available to the Commission (i.e. 14 (6) database) calculated on a weighted average basis.

(46) In case of the cooperating Chinese exporting producer the export prices were based on the price at which the

imported products were first resold to an independent buyer, in accordance with Article 2(9) of the basic Regulation.

1.4. Comparison

(47) For the non-cooperating Chinese exporting producers the comparison between the normal value and the export price was made on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments were made, where appropriate, in respect of freight and transport costs, in all cases where demonstrated to affect price comparability, determined on the basis of the data collected from the cooperating Chinese exporting producer.

(48) In the case of the cooperating Chinese exporting producer, the comparison was made between the weighted average normal value and the weighted average export price established on the basis of the reported and verified data compared on an ex-works basis per product type and at the same level of trade. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments up to 5,9 % were made, where appropriate, in respect of freight and transport costs, in all cases where demonstrated to affect price comparability.

1.5. Dumping margin

(49) As provided for under Article 2(11) of the basic Regulation, the dumping margin for the cooperating Chinese exporting producer was established on the basis of a comparison of the weighted average normal value by type with the weighted average export price of the corresponding type of the product concerned. This indicative comparison did not show the existence of dumping. Since the imports of this company represented only a marginal proportion of total Chinese imports in volume, the findings for this company are not considered representative for whole PRC

(50) In the case of the non-cooperating Chinese exporting producers the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export price. Given the lack of cooperation, the comparison per product type was not possible. Instead the comparison had to be based on the statistical data as explained in recitals (44) and (45) above. The comparison showed existence of an indicative dumping margin of 11,5 %.

1.6. Likelihood of a continuation of dumping PRC

(51) In view of the low cooperation no information concerning Chinese domestic market was available during the investigation. The cooperating Chinese exporter was set up to produce for the Union market only and had no information on the domestic situation.

(52) The findings in respect of likelihood of continuation of dumping had to rely mainly on the information available in the expiry review request and the information verified and published in the framework of the sunset review of June 2010 carried out by the US International Trade Commission ('US sunset review')⁽¹⁾ which the Commission considered relevant for the purpose of its investigation.

(a) Volume and prices of dumped imports from the PRC

(53) Despite the measures in place and despite a decrease of Chinese imports during the period considered as established below (see recital (106)), they continued to have a significant market share in the Union market of around 15-20 % during the ERIP, undercutting the Union prices by close to 20 % during the same period (see recital (109) below).

(54) Given the substantial market share and continued significant undercutting in ERIP, it can be reasonably expected that the Chinese imports of substantial volumes would continue exercising significant price pressure on the Union industry should the measures be lifted.

(b) Production capacity and spare capacity in the PRC

(55) The data published in the US sunset review shows significant capacity in the PRC representing around 80 % of the Union consumption (2009). The Commission did not identify more recent information that would contradict the information collected by the US investigating authority. Given the lack of cooperation, the exact unused capacity could not be established.

(56) Based on the information in the expiry review request, the number of existing producers in the PRC remained high. Therefore, no indication on the decrease of the production capacity in the PRC was thus identified.

(57) In addition, based on the information collected by the Commission from the US sunset review and confirmed by the findings of the current expiry review with regard to the cooperating Chinese exporting producer, additional capacity can be easily installed to meet an increase in demand as the production is mainly labour based. Furthermore, the investigation revealed that the producers manufacturing also other products than the product concerned were able to switch easily between the production of other products and the production of the product concerned depending on demand. Therefore, if the anti-dumping duty was revoked the Chinese producers would most likely be able to increase their production of ironing boards relatively quickly without any substantial investments required.

(58) Therefore, on the basis of the information available, it was concluded that there are at least potentially high capacities available in the PRC, which could be re-directed to the Union market should the anti-dumping measures be allowed to lapse.

(c) Attractiveness of the Union market and other third markets

(59) Due to the low cooperation and unavailability of reliable data price comparison between the imports to the Union and to other third export markets as well as the Chinese domestic prices could not be carried out. The indicative comparison based on facts available revealed significant undercutting of the average Union prices by the Chinese imports (see recital (109) below). The Union market is therefore considered attractive for the Chinese exporting producers in terms of price.

(60) Moreover, based on the findings in the US sunset review, against which no contradicting information was found, it can be considered that the Union is currently the largest export market for the Chinese producers. The second largest export market, the US, remains closed to the Chinese exporting producers as the anti-dumping duties are substantial and have been recently extended until 2015.

(61) The relatively stable and substantial market share of the Chinese imports despite the measures in place indicates that the Union continues to be an attractive export market for the Chinese exporting producers. The closure of the US market, the second largest export market, shows that the absorption capacity of third markets is limited. Therefore, the Union market is likely to be targeted by the Chinese exporting producers should the anti-dumping measures against the PRC be lifted.

⁽¹⁾ No. 731-TA-1047 (Review).

(d) Past behaviour

- (62) The information collected in the framework of the US sunset review shows that the Chinese producers are highly export oriented. This seems to be partly confirmed by the findings of the current expiry review where the sole exporting producer was not active in the Chinese domestic market, but exclusively export oriented.
- (63) The extension of the anti-dumping measures by the US following the US sunset review is an indication that the dumping practice of Chinese exporting producers on other markets may be replicated on the Union market if the existing measures were to be lifted.
- (64) Also, the behaviour of a Chinese exporter that had benefitted in the past from a 0 % duty rate, Since Hardware (Guangzhou) Co, can be considered to be a strong indication of the likely behaviour of the Chinese exporters, if the duties were lifted. Since Hardware, one of the largest Chinese exporting producers increased its market share on the Union market by approximately 64 % in volume, with established dumping of around 52 % and an undercutting of the Union industry prices of 16 % ⁽¹⁾. In view of the attractiveness of the Union market and available capacity in the PRC, this past behaviour indicates that the dumped imports are likely to recur in substantial volumes if the measures were to be lifted.

1.7. Conclusion of the likelihood of a continuation of dumping -the PRC

- (65) In view of the findings described above, it can be concluded that considering the significant production capacity available in the PRC, the ability of Chinese producers to increase rapidly their production volumes and direct them for export, the significant level of dumping and undercutting of such exports and the attractiveness of the Union market for such exports, it is reasonable to assume that a repeal of the measures would result in increased exports at dumped levels of ironing boards from the PRC to the Union.

2. Dumping - expiry review – Ukraine**2.1. General remarks**

- (66) In case of Ukraine, the sole known Ukrainian exporting producer did not cooperate in the expiry review therefore the facts available had to be used. Given the overlap between the expiry review and interim review investigation periods and considering that the Ukrainian exporting producer represented 100 % of imports from Ukraine, the data collected and verified in the context of the interim review was used as facts available in the parallel expiry, in agreement with that producer.

2.2. Findings

- (67) The findings of the interim review described in the section 6 below were used as facts available for the purpose of the expiry review.

2.3. Dumping margin

- (68) As provided for under Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value by type with the weighted average export price of the corresponding type of the product concerned. This comparison did not show the existence of dumping

2.4. Likelihood of recurrence of dumping

- (69) In respect of likelihood of recurrence of dumping the following elements were analysed: the volume and prices of dumped imports from Ukraine, attractiveness of the Union market and other third markets, production capacity and excess capacity available for exports of the Ukrainian producer.

(a) Volume and prices of dumped imports from Ukraine

- (70) Imports of ironing boards originating in Ukraine increased by 24 %. The corresponding market share increased slightly from 8 % in 2008 to 10 % in the expiry review investigation period.

- (71) Throughout the period considered, imports prices followed the same trends as the sales prices of the Union industry on the Union market. Overall, imports prices increased from 2008 to the expiry review investigation period by 14 %.

(b) Attractiveness of the Union market and other third markets

- (72) During the period considered, Ukrainian export prices to third countries were generally lower than its prices on the Union market. This price difference was more than 10 % of the export price level during the expiry review investigation period.

- (73) Ukrainian export prices to third countries were generally below the price of Ukrainian exports to the Union which supports the conclusion that the Union market is attractive as the Union market may generate higher profits.

⁽¹⁾ See recitals 57 and 67 of Regulation (EU) No 1243/2010.

(c) Production capacity and excess capacity available for exports of the Ukrainian producer

(74) During the expiry review investigation period, Ukraine had only a small part of its production capacity available for exports.

(75) According to the information collected during the investigation, Ukrainian capacity is not projected to increase further. Therefore there is no likelihood that exports to the Union would increase should the measures be repealed.

(d) Conclusion on the likelihood of recurrence of dumping - Ukraine

(76) In view of the above, in particular the findings concerning the expected evolution of capacity, it was considered that there is no likelihood that Ukrainian exporting producer will resume exporting injurious quantities at dumped prices to the Union market in the short to medium term should measures be repealed.

3. Dumping - interim review – Ukraine

3.1. Normal value

(77) In accordance with Article 2(2) of the basic Regulation, it was examined whether the total domestic sales volume of the like product to independent customers were representative during the interim review investigation period, i.e. if the total volume of such sales represented 5 % or more of their export sales volume of the product concerned to the Union. On that basis, the domestic sales of the cooperating Ukrainian producer were considered to be overall representative.

(78) The Commission subsequently identified those product types sold domestically that were identical or comparable with the types sold for export to the Union.

(79) For each product type sold by the exporting producer on its domestic market and found to be identical or comparable with the product type sold for export to the Union, it was examined whether the domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular product type were considered sufficiently representative when the total volume of that product type sold on the domestic market to independent customers during the interim review investigation

period represented at least 5 % of the total volume of the comparable product type sold for export to the Union.

(80) It was subsequently examined whether the domestic sales of the like product could be regarded as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation, by establishing for each product type the proportion of profitable sales to independent customers on the domestic market.

(81) Where the sales volume of a product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average sales price of that type was equal to or higher than the unit cost of production, normal value was based on the actual domestic price calculated as the weighted average of the prices of all domestic sales of that type made during the interim review investigation period, irrespective of whether those sales were profitable or not.

(82) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the unit cost of production, normal value was based on the actual domestic price, which was calculated as a weighted average price of only the profitable domestic sales of that type made during the interim review investigation period.

(83) As regards the types of product that were not profitable, normal value was constructed in accordance with Article 2(3) and 2(6) of the basic Regulation. The normal value was constructed by adding to the cost of manufacturing of the Ukrainian producer during the expiry review investigation period the weighted average selling, general and administrative expenses (SG&A) incurred in the ordinary course of trade and the weighted average profit realised for the product types that were profitable.

3.2. Export price

(84) As the Ukrainian exporting producer made export sales to the Union directly to independent customers in the Union, the export prices were based on the prices actually paid or payable for the product concerned, in accordance with Article 2(8) of the basic Regulation.

3.3. Comparison

(85) The normal value and export price were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments were made in respect of transport, insurance, handling and ancillary costs, packing, credit, bank charges and commissions in all cases where demonstrated to affect price comparability.

3.4. Dumping margin

- (86) As provided for under Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value by type with the weighted average export price of the corresponding type of the product concerned. This comparison did not show the existence of dumping.

4. Lasting nature of the changed circumstances – Ukraine

- (87) In accordance with Article 11(3) of the basic Regulation, it was also examined whether the changed circumstances could reasonably be considered to be of a lasting nature.

4.1. Lasting nature of the changed circumstances

- (88) The Ukrainian producer has restructured its sales organisation so that, since December 2010, all its export sales of the product concerned to the Union has been made directly to the independent customer without involving any related sales company. The calculation of the export prices was therefore adjusted to take into account these new circumstances.
- (89) These changes are considered to be of lasting nature since the tasks previously carried out by the related company were effectively transferred to the Ukrainian producer for a period of about one year. No indications pointing to possible future changes in the sales structure were found. Therefore, it is concluded that the changed circumstances are of a lasting nature.

D. DEFINITION OF THE UNION INDUSTRY

Union production and Union Industry

- (90) The like product was manufactured by an estimated 20-30 producers in the Union. They constitute the Union industry within the meaning of Article 4(1) of the basic Regulation.
- (91) Annual production of the Union industry was estimated on the basis of the findings made in the investigation mentioned in recital (1) above concerning imports of ironing boards of Since Hardware (Guangzhou) Co, a Chinese exporting producer of ironing boards and of the basis of the data submitted by the cooperating Union producers. As mentioned in recital (65) of Council Implementing Regulation (EU) No 1243/2010 imposing anti-dumping measures on imports of the before mentioned exporting producer, the annual Union production of ironing can be estimated at above 5 million pieces in 2009. Thus, and in the absence of any other information, it was considered reasonable to assume that the total annual Union production

amounted to 5 million pieces at the beginning of the period considered of the current expiry review (2008). The development of the production volume over the period considered was established on the basis of the trends in production volume of the cooperating Union producers. The Union production volume thus established amounted to an estimated 5,2 million pieces during the ERIP.

- (92) As indicated in recital (20) above, three Union producers were selected in the sample representing more than 40 % of the total Union production of the like product. These sampled producers provided questionnaire replies.
- (93) In addition, four other Union producers submitted basic information on their production and sales data.
- (94) The above seven Union producers were found to account for more than 55 %, of the total Union production of the like product.
- (95) The Union market for ironing boards is characterised by mostly small and medium producers located in a number of Member States including Germany, Italy, the Netherlands, Poland, Portugal, Spain and the United Kingdom.

E. SITUATION ON THE UNION MARKET

- (96) Since there is only one exporting producer in Ukraine, Union consumption and some of the macroeconomic indicators are presented in indexed form or ranges, so as to protect confidentiality pursuant to Article 19 of the basic Regulation

1. Union consumption

- (97) Union consumption was established on the basis of the sales volumes of the Union industry on the Union market as described in recital (100) and the import volume as recorded in the 14(6) database.
- (98) As far as import volumes from the PRC are concerned, the data of the only cooperating Chinese exporter could not be used to extrapolate the total amount of imports from the PRC as they represented only a very small part of total imports from the PRC. Total import volume had therefore to be established on the basis of the facts available in accordance with Article 18 of the basic Regulation. As the relevant CN codes in Eurostat cover more products than the product concerned, Eurostat was not considered suitable either to establish import volumes from the PRC. Thus, in light of the extremely low cooperation of the Chinese exporting producers and

the lack of cooperation of unrelated importers, the only reliable statistical source to determine import volumes was the information contained in the 14(6) database. As import volumes in the 14(6) database are however only reported in kg, the data had to be converted in pieces (units) by using the conversion rate established for the imports from Ukraine in the parallel interim review. This was considered reasonable since the imports of the Chinese cooperating company were not considered representative and in addition, as mentioned above in recital (36), Ukraine was also used as an analogue country for determining normal value for the PRC and therefore data were considered representative for the determination of the level of Chinese imports.

been verified and was found accurate and representative for the determination of import volumes from Ukraine in the expiry review investigation period.

(99) In case of imports from Ukraine the verified data reported in the questionnaire reply in the parallel interim review were used. Although the interim investigation period was set from 1 April 2011 to 31 March 2012 and therefore did not cover the first quarter of the expiry review investigation period, it was found that that information is nevertheless suitable for the determination of the import volumes. Indeed, that information had

(100) The sales volumes of the Union industry on the Union market were estimated by extrapolating the ratio between total production volume and total sales volume of the seven cooperating Union producers to the total estimated production volume of the Union industry for each year of the period considered.

(101) On this basis, Union consumption decreased between 2008 and the ERIP by 11 %. In details, the apparent demand decreased by 7 percentage points between 2008 and 2009, where after it increased by 9 percentage points between 2009 and 2010. During the ERIP the Union consumption totalled 9 to 10 million pieces, representing a decrease of 13 percentage points as compared to the previous year.

Table 1

Volume (1 000 pieces)	2008	2009	2010	ERIP (2011)
Consumption	10 000 - 11 000	9 000 - 10 000	10 000 - 11 000	9 000 - 10 000
Index	100	93	102	89

Source: 14(6) database, questionnaire replies

2. Imports from countries concerned

Cumulative assessment of the effects of the imports from the countries concerned

- (102) In the original investigation concluded in 2007, imports originating in the PRC and Ukraine were assessed cumulatively in accordance with Article 3(4) of the basic Regulation. It was examined whether a cumulative assessment was also appropriate in the current expiry review.
- (103) In this respect, it was found that the dumping margin established for imports from the PRC was above the de minimis level (11,5 %) as defined in Article 9(3) of the basic Regulation. As regards the imports from Ukraine, no dumping was established for the ERIP and no likelihood of recurrence of dumping. On these grounds the imports from Ukraine should be de-cumulated from the imports from the PRC, since the criteria set out in Article 3(4) of the basic Regulation are not met.

3. Imports from the PRC

3.1. Volume and market share

- (104) As mentioned above in recital (98), given the extremely low cooperation of the Chinese exporting producers, total imports volume from the PRC was established on the basis of the information available in the 14(6) data base in accordance with Article 18 of the basic Regulation.

- (105) On this basis, imports of the product concerned from the PRC decreased in absolute terms from 4 to 4,5 million pieces in 2008 to 1,5 to 2,0 million pieces in the ERIP, which represented a decrease of 59 % during the period considered. This decrease was particularly pronounced between 2010 and the ERIP where imports from the PRC decreased from 3 to 3,5 million in 2010 to 1,5 to 2,0 million pieces in the ERIP, by 36 percentage points. This decrease coincides with the re-introduction of the anti-dumping duty on Since Hardware in December 2010 (see recital (64) above).
- (106) While market shares of Chinese imports decreased by 22 percentage points during the period considered, the market share held during the ERIP, i.e. 15-20 %; was substantial.

Table 2

	2008	2009	2010	ERIP (2011)
Volumes of imports subject to measures from the PRC (1 000 pieces)	4 000 - 4 500	3 000 - 3 500	3 000 - 3 500	1 500 - 2 000
Index	100	73	76	40
Market share of imports subject to measures from the PRC	40 % - 45 %	30 % - 35 %	30 % - 35 %	15 % - 20 %

Source: 14(6) database

3.2. Prices and price undercutting

- (107) Due to the extremely low cooperation of the Chinese exporting producers, the average import price regarding imports from the PRC had to be established on the basis of the facts available in accordance with Article 18 of the basic Regulation, i.e. on the basis of the information contained in the 14(6) database. Information recorded therein were converted into price/piece following the above mentioned methodology (see recital (104) above). Import prices established under that methodology increased from 7,0 EUR/piece in 2008 to 8,2 EUR/piece during the ERIP, i.e. by 17 %.

Table 3

Price of imports subject to measures in EUR/piece	2008	2009	2010	ERIP (2011)
The PRC	7,0	8,3	8,4	8,2
Index	100	119	121	117

Source: 14(6) database

- (108) In order to determine price undercutting during the ERIP, the weighted average sales price of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level (i.e. excluding freight costs in the Union and after deduction of discounts and rebates), were compared to the corresponding weighted average price of the imports as established above in recital (107), on a CIF basis, with appropriate adjustments for customs duties.

- (109) The comparison showed that, when expressed as a percentage of the sampled Union producers' turnover during the ERIP, imports from the PRC were undercutting the prices of the Union industry close to 20 %.

4. Imports from Ukraine

- (110) As mentioned above in recital (99) import volumes and prices from Ukraine were established on the basis of the verified questionnaire reply submitted by the Ukrainian exporting producer in the parallel on-going interim review.
- (111) The following table shows the development of imports from Ukraine during the period considered in terms of volume and market shares.

Table 4

	2008	2009	2010	ERIP (2011)
Volumes of imports subject to measures from Ukraine (1 000 pieces)	700-900	800-1 000	900-1 100	900-1 100
Index	100	104	128	124
Market share of imports subject to measures from Ukraine	6 % - 9 %	7 % - 10 %	8 % - 11 %	9 % - 12 %

Source: Verified questionnaire reply

- (112) Imports of ironing boards originating in Ukraine increased by 24 % between 2008 and 2011. Ukraine was able to increase its imports mainly because of the higher anti-dumping duty on imports of ironing boards originating in the PRC. Moreover, the amendment of the anti-dumping duty for Ukraine in July 2010 from 9,9 % to 7,7 % contributed to this development making the Ukrainian imports more competitive on the Union market.

- (113) The following table shows the development of the average CIF Union frontier prices of imports under measures from Ukraine.

Table 5

Price of imports subject to measures in EUR/piece	2008	2009	2010	ERIP (2011)
Ukraine	8 - 10	9 - 11	10 - 12	9 - 11
Index	100	110 - 115	115 - 120	110 - 115

Source: Verified questionnaire reply

- (114) As shown in table 5 above, the average import price increased by 10-15 % during the period considered, and almost reached the price level of the Union industry in the Union market during the ERIP.

5. Imports from other third countries not subject to measures

- (115) Import volumes from other third countries not subject to measures were established on the basis of the 14(6) database converted into pieces following the same methodology than for the determination of import volumes from the PRC as described in recital (98) above. This was considered reasonable as the relevant CN codes in Eurostat covered also other products than the product concerned and were therefore not found suitable to establish import volumes from other third countries.

- (116) The following table shows the development of imports from other third countries during the period considered in terms of volume and market share, as well as the average price of these imports.

Table 6

Volumes of imports from other third countries in 1 000 pieces	2008	2009	2010	ERIP (2011)
Turkey	300-500	500-700	700-900	800-1 000
Index	100	160-170	215-225	225-235
other third countries	400-600	600-800	900-1 100	700-900
Index	100	130-140	190-200	150-160

Volumes of imports from other third countries in 1 000 pieces	2008	2009	2010	ERIP (2011)
Total all other countries	700-1 100	1 100-1 500	1 600-2 000	1 500-1 900
Index	100	140-150	200-210	180-190
Market share of imports from all other third countries	5 % - 10 %	10 % - 15 %	15 % - 20 %	15 % - 20 %
Price of imports from all other countries (EUR/piece)	7,7	8,1	8,2	9,0
Source: 14(6) database				

- (117) The volume of imports from other third countries increased overall during the period considered. While it increased and even more than doubled between 2008 and 2010, it decreased again between 2010 and the ERIP. On this basis, the volume of imports from other third countries increased considerably in the period considered and reached 1,5-1,9 million pieces in the ERIP, translating in a market share of in the range of 15-20 % during the ERIP. Most of these imports came from Turkey where imports increased from 0,3 - 0,5 million pieces in 2008 to 0,8 - 1,0 million pieces in the ERIP.
- (118) The average price of imports from other third countries without measures increased from 7,7 EUR/piece in 2008 to 9,0 EUR/piece during the ERIP, i.e. an increase of 17 %.

6. Economic situation of the Union industry

- (119) Pursuant to Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic factors and indices having a bearing on the state of the Union industry during the period considered.
- (120) As mentioned above in recital (20) sampling was used for the examination of the possible injury suffered by the Union industry.
- (121) For the purpose of the injury analysis, the injury indicators have been established at two levels:
- the macroeconomic indicators (production, production capacity, capacity utilisation, productivity, sales volume, market share, growth, employment, and magnitude of dumping margins and recovery from past dumping) were assessed at the level of the whole Union production, estimated on the basis of the information collected from the producers that came forward;
 - the analysis of microeconomic indicators (average unit prices, unit costs, stocks, labour costs, profitability, return on investments, cash flow, ability to raise capital and investments) was carried out on the basis of information provided by the three sampled Union producers.

6.1. Macroeconomic indicators

(a) Production

- (122) Total Union production was estimated as described above in recital (91). On this basis, the Union production increased by 4 % between 2008 and the ERIP. More specifically, it decreased by 2 % between 2008 and 2009 but increased by 6 percentage points between 2009 and ERIP to around 5,2 million units.

Table 7

in 1 000 pieces	2008	2009	2010	ERIP (2011)
Production	5 000	4 887	5 072	5 194
Index	100	98	101	104

Source: Questionnaire replies

(b) Production capacity and capacity utilisation

(123) Production capacity was estimated by applying the ratio between total production volume and total capacity of the seven cooperating Union producers for each year of the period considered to the total production of the Union industry as established above in recital (122) above.

(124) The production capacity of the Union industry increased by 17 % throughout the period considered. However this increase is only related to one of the Union producers whereas the other cooperating Union producers had stable capacities over the period considered. The findings of the investigation indicate that some of the non-cooperating Union producers may have closed down their production facilities thereby decreasing the total Union production capacity during the period considered which is not reflected in table 8 below. The investigation revealed also that the Union industry produced other products than the product concerned (such as dryers) partly on the same production lines. Furthermore, the investigation has shown that Union producers can switch easily between production of the product concerned and other products. It was therefore

not possible to clearly establish production capacity of the product concerned.

(125) Capacity utilisation was 66 % in 2008 and dropped slightly to 58 % during the ERIP. As indicated in the preceding recital, total production capacity in the Union could not be reliably established. As capacity utilisation is established on the basis of total capacity, likewise, it cannot necessarily be considered as a meaningful injury indicator in this case.

Table 8

in 1 000 pieces	2008	2009	2010	ERIP (2011)
Production capacity	7 592	7 962	8 375	8 906
Index	100	105	110	117
Capacity utilisation	66 %	61 %	61 %	58 %
Index	100	93	92	89

Source: Questionnaire replies

(c) Sales volume

(126) Sales volume of the Union industry was established as described in recital (100) above. Thus, sales volume of the Union industry to unrelated customers on the Union market increased by 10 % between 2008 and the ERIP. This increase was particularly pronounced between 2010 and the ERIP, where sales volumes increased by 7 percentage points. This coincides with a decrease in imports from the PRC due to the imposition of the anti-dumping duty on Since Hardware (Guangzhou) Co.

Table 9

in 1 000 pieces	2008	2009	2010	ERIP (2011)
Sales to unrelated customers in the Union	4 300 - 4 500	4 300 - 4 500	4 500 - 4 700	4 800 - 5 000
Index	100	99	103	110

Source: Questionnaire replies

(d) Market share

(127) During the period considered, the Union industry regained market share, which increased from 40-45 % in 2008 to 50-55 % in the ERIP, i.e. by 24 %. This increase is mainly due to the decrease in consumption as well as the Chinese import volume and the parallel increase in sales volume of the Union industry.

Table 10

	2008	2009	2010	ERIP (2011)
Market shares of the Union producers	40 % - 45 %	45 % - 50 %	40 % - 45 %	50 % - 55 %
Index	100	107	101	124

Source: Questionnaire replies and 14(6) database

(e) Growth

- (128) The Union consumption declined between 2008 and the ERIP. In parallel, the volume of sales by the Union industry on the Union market increased by 10 % and the Union industry market share increased by 24 %. Likewise, production of the Union industry increased by 4 %, investment more than doubled (recital (141) below) and employment increased 10 % (recital (129) below) during the same period. Therefore, it can be concluded that the Union industry experienced some growth over the period considered.

Table 12

	2008	2009	2010	ERIP (2011)
Productivity (000 pieces per employee)	7,6	7,3	6,9	7,2
Index	100	95	90	94

Source: Questionnaire replies

(f) Employment

- (129) Employment and trends in employment for the total Union industry were estimated by extrapolating the figures available with regard to the cooperating Union producers. In line with the increase in sales, the employment level of the Union industry shows an increase of 10 % between 2008 and the ERIP.

Table 11

	2008	2009	2010	ERIP (2011)
Employment for the like product	655	672	736	722
Index	100	102	112	110

Source: Questionnaire replies

(g) Productivity

- (130) Productivity of the Union industry workforce, measured as output (pieces) per person employed per year, decreased by 6 % in the period considered. This is linked to the fact that the production increased to a lesser extent than the employment.

(h) Magnitude of the dumping margin and recovery from past dumping

- (131) The dumping margin found was significantly above the de minimis level. As regards the impact of the magnitude of the actual dumping margins on the Union industry, given in particular the volumes and prices of imports from the PRC, the impact cannot be considered negligible.
- (132) Regarding the effects of past dumping, while the indicators examined above show some improvement, they also provide evidence that the Union industry is still fragile and vulnerable.

6.2. Microeconomic indicators

(a) Prices and other factors effecting prices

- (133) The average sales price of the sampled Union producers to unrelated customers in the Union developed as shown in the table below. Average prices remained relatively stable during the period considered, albeit with a slight increase in the ERIP. As above, this increase coincided with the imposition of anti-dumping measures with regard to Since Hardware (Guangzhou) Co.

Table 13

	2008	2009	2010	ERIP (2011)
Unit price Union market (EUR/piece)	10,9	10,7	10,9	11,2
Index	100	98	100	103
Unit cost of production (EUR/piece)	10,9	10,5	11,0	11,4
Index	100	96	101	105

Source: Questionnaire replies

- (134) The sales prices follow the price trends of the main raw materials (i.e. steel). Sales prices and costs remained relatively stable over the period considered, though costs increased slightly more than sales prices, which negatively impacted the profitability situation of the Union industry between 2008 and the ERIP. However, the Union industry was not in a position to increase its prices to sustainable levels but was forced to match prices with the low priced Chinese imports to re-gain market share in a period of declining consumption.

(b) Labour cost

- (135) The average wages were stable over the period considered, while the unit cost of production increased by 3 % (table 13 above).

Table 14

EUR/employee	2008	2009	2010	ERIP (2011)
Average wage	20 669	19 377	19 885	20 523
Index	100	94	96	99

Source: Questionnaire replies

(c) Stocks

- (136) Volume of stocks increased during the period considered. The level of stocks was 56 % higher in the ERIP in relation with their levels in 2008.

Table 15

in 1 000 pieces	2008	2009	2010	ERIP (2011)
Closing stock	94	137	184	146
Index	100	147	197	156

Source: Questionnaire replies

(d) Profitability and return on investments

- (137) The Union industry was able to increase its profitability slightly between 2008, where it was at break even, and 2009 where it increased to 2 %. However, profitability decreased again in 2010 and even further during the ERIP where it reached – 1,7 %. Overall, the profitability decreased by almost 2 % over the period considered. As mentioned above in recital (134) this was mainly due to the fact, that the Union industry was not able to increase its sales prices in line with the increase in costs as it was forced to match the low Chinese import prices to re-gain its market share.

- (138) The return on investments (ROI), expressed as the profit in percent of the net book value of investments, broadly followed the profitability trend. It increased between 2008 and 2009, and from 2009 to the ERIP it decreased. The decrease in ROI was more pronounced than the decrease in profitability levels as a result of increased investments as shown in recital (141) below.

Table 16

	2008	2009	2010	ERIP (2011)
Profitability (% of net sales)	0,0 %	2,0 %	– 0,8 %	– 1,7 %
Index	100	102	99	98
ROI (profit in % of net book value of investments)	– 4 %	96 %	– 20 %	– 82 %
Index	100	200	84	22

Source: Questionnaire replies

(e) Cash flow and ability to raise capital

- (139) The net cash flow from operating activities, which is the ability of the industry to self-finance its activities, expressed as a percentage of the turnover of the like product, improved in line with the profitability from break-even level in 2008 to 5 % in 2009. It dropped to 3 % in 2010 and was negative during the ERIP.

Table 17

	2008	2009	2010	ERIP (2011)
Cash flow (% of turnover)	0 %	5 %	3 %	– 1 %

Source: Questionnaire replies

- (140) There were no particular indications that the Union industry would have encountered difficulties in raising capital.

(f) Investments

- (141) The sampled producers' annual investments in the production of the like product more than doubled between 2008 and the ERIP. It increased sharply between 2008 and 2009. The increase in investments can be explained by the restructuring efforts made by the Union industry by investing in their production process to make it more competitive. Between 2010 and the ERIP there was a decrease while the level of investments remained considerably higher when compared to 2008.

Table 18

	2008	2009	2010	ERIP (2011)
Net investments (000 EUR)	239	504	1 046	569
Index	100	211	438	239

Source: Questionnaire replies

7. Conclusion on injury

- (142) The analysis of the macro-economic indicators showed signs of improvement in particular in terms of production and sales volumes as well as the Union industry's market share over the period considered. At the same time some of the relevant micro-economic indicators decreased such as profitability and return on investments. Sales prices, although increasing slightly could not reach sustainable levels and match the increase in the production cost. This is mainly explained by the fact that the market share of the Chinese imports remained at high levels throughout the period considered, whereas the Chinese imports also were at low prices which the Union industry had to follow to re-gain market share.
- (143) Therefore, the measures against the PRC had only partly helped the Union industry to recover from the injury suffered.
- (144) In view of the above analysis, the situation of the Union industry has improved and no material injury was taking

place. Nevertheless, despite apparent positive trends and the significant restructuring efforts, the Union industry is still fragile and vulnerable.

F. LIKELIHOOD OF RECURRENCE OF INJURY

1. Preliminary remarks

- (145) As mentioned above in recitals (51) to (52), in view of the low cooperation of the Chinese exporting producers, the analysis concerning the Chinese domestic market and the exports from the PRC to other third countries, had to rely on information available, i.e. the information published in the framework of the sunset review of June 2010 carried out by the US International Trade Commission ('US sunset review').
- (146) During the period considered, the Union industry was in a fragile vulnerable situation, still exposed to the injurious effect of the dumped imports from the PRC.
- (147) In accordance with Article 11(2) of the basic Regulation, imports from the country concerned were assessed in order to establish if there was a likelihood of recurrence of injury, should measures be allowed to lapse.

2. Impact of the projected volume of imports and price effects in case of repeal of measures

- (148) As mentioned above, regarding imports from the PRC, there was a likelihood of continuation of dumping should measures be allowed to lapse. The import volumes of the product concerned from the PRC would most likely increase without measures at prices significantly undercutting the Union industry's sales prices on the Union market. The investigation has shown that the main customers of the Union industry are retailers, i.e. large supermarkets which are in a strong negotiation position and will increasingly source ironing boards from the PRC that will very likely enter the market at very low dumped prices. Therefore, the price pressure on the Union industry would likely aggravate, and it will be forced to lower its prices with disastrous effect on their profitability situation which was already negative during the ERIP.
- (149) Thus, against the fragile and vulnerable situation of the Union industry, the increased volumes and price effects of the dumped imports from the PRC would result in heavy financial losses and decrease of market share.

(150) The behaviour of a Chinese exporter that had benefitted in the past from a 0 % duty rate, Since Hardware (Guangzhou) Co, can be considered to be a strong indication of the likely behaviour of Chinese exporters, if the duties were lifted. It is recalled that Since Hardware (Guangzhou) Co, which benefitted from a 0 % duty in the past (from April 2007 to December 2010) significantly increased its exports to the Union at substantially dumped prices undercutting the Union industry prices during that period. As mentioned before, an anti-dumping investigation regarding this company resulted in the imposition of a definitive anti-dumping duty of 35,8 %. This investigation also concluded that the volume of imports from this company during the investigation period of that investigation (2009) had doubled when compared to the imports of the same company during the investigation period of the original investigation concluded in 2007 (2005). The investigation with regard to Since Hardware (Guangzhou) Co concluded that as a consequence the Union industry suffered material injury.

(151) In addition, the investigation showed that, prior to the initiation of the present expiry review, Chinese exporting producers already approached potential customers in the Union with price offers significantly undercutting the Union industry's sales price. This shows that it is very likely that the Chinese exporting producers would attempt to enter the Union market in increased quantities by lowering their current price levels if measures would be allowed to lapse.

3. Attractiveness of the Union market, existing measures in other third countries and spare capacity

(152) As mentioned above in recitals (55) to (57), the Chinese industry of ironing boards is highly export oriented and, even after the imposition of the measures, the Union remains their largest and most attractive market.

(153) For the Chinese exporting producers the US the second largest export market. However, access to the US market remains restricted due to the existence of high anti-dumping measures which were extended until 2015. This reinforces the likelihood that imports from the PRC would be directed to the Union market in increased quantities should measures not be maintained.

(154) According to the information collected by the Commission from the US sunset review, there are potentially substantial spare capacities available in the PRC and further additional capacity can be easily increased in case the anti-dumping duties were revoked as the production

of ironing boards in the PRC is labour intensive and any increase in production does not require important investments or specific skills. Therefore, on the basis of all the information available, it was concluded that there are at least potentially substantial spare capacities available in the PRC, which could be re-directed to the Union market should the anti-dumping measures be allowed to lapse.

4. Other factors

4.1. Non-dumped imports from the PRC

(155) As mentioned above, during the ERIP no dumping was found for the only cooperating Chinese exporter which has an individual duty of 22,7 %. However, since the imports of this company represented only a minimal proportion of the total Chinese import volume, they could not be considered as significant and could not be considered as having contributed to the fragile situation of the Union industry during the ERIP.

(156) It was also established that imports from this company were not undercutting the prices of the Union industry during the ERIP.

4.2. Imports from Ukraine

(157) As mentioned above, imports of ironing boards originating in Ukraine increased by 24 %. This resulted in a slight increase of the corresponding market over the period considered.

(158) However, the average import price increased from 2008 to the ERIP by 14 %, and reached the same price level than the Union industry in the Union market during the ERIP.

(159) Therefore, the fragile situation of the Union industry cannot be explained by the imports of ironing boards from Ukraine. Likewise, it is not likely that imports from the Ukraine would contribute to the recurrence of injury should measures be allowed to lapse.

4.3. Imports from other third countries not subject to measures

(160) Import volume from other third countries not subject to measures increased over the period considered, though there was a slight decrease between 2010 and the ERIP. This increase in import volume also translated into an increase in market share during the same period, from 5-10 % to 15-20 %.

(161) Although price levels of other third countries' imports were below the average prices of the Union industry, they were above the average import prices from The PRC as established during the current investigation.

(162) Despite the above, Chinese imports are likely to increase significantly at dumped prices undercutting the Union industry's prices. Indeed, the investigation revealed that the average import prices from the PRC without anti-dumping duty were undercutting the Union industry's sales prices on the Union market by about 20 %. Thus, Chinese imports are expected entering the Union market at prices lower than the average price of the imports from other third countries, should measures be allowed to lapse, as it was already the case during the ERIP. Therefore, it was concluded that imports from third country markets although having had some impact on the situation of the Union industry, cannot invalidate the conclusion of the likelihood of recurrence of injurious dumping from Chinese imports should measures be allowed to lapse.

4.4. *Decrease in consumption*

(163) It is noted that the apparent decrease in consumption between 2010 and the ERIP is mainly the statistical effect of the decrease in imports caused the imposition of anti-dumping measures against Since Hardware (Guangzhou) Co. During the same period, the Union industry was able to increase its sales volume and market share. Therefore, the decrease in consumption could not have had an impact on the situation of the Union industry.

5. **Conclusion on the likelihood of recurrence of injury**

(164) The investigation established a likelihood of recurrence of injury should measures be allowed to lapse.

(165) Taking into account the level of dumping still exercised by the Chinese exporting producers, the attractiveness of the Union market, the past behaviour of the Chinese exporting producer Since Hardware (Guangzhou) Co evidenced in the investigation concluded in December 2010, the possibility for Chinese producers to increase capacity easily in case of increased demand, the strong export orientation of Chinese producers and their price strategies, in the event that measures were allowed to lapse, it is likely that the Union industry would be confronted with an increase of dumped Chinese imports, significantly undercutting the Union industry's prices. In such case, not only the already difficult situation of the Union industry in terms of profitability is expected to worsen, but also some of the recent

improvements in the overall performance of the Union industry are likely to reverse.

G. **UNION INTEREST**

1. **Introduction**

(166) In compliance with Article 21 of the basic Regulation, it was examined whether the imposition of anti-dumping measures on imports of ironing boards originating in the PRC following the findings of the present expiry review would not be in the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests involved. All interested parties were given the opportunity to make their views known pursuant to Article 21(2) of the basic Regulation.

(167) The present investigation is a review that analyses a situation in which anti-dumping measures have already been in place. Therefore, it allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.

(168) It is also noted that it is proposed to terminate the anti-dumping proceeding with regards to imports of ironing boards originating in Ukraine which leads to an increased access of imports of third countries without restrictions to the Union market.

(169) On this basis, it was examined whether, despite the conclusions on the likelihood of recurrence of injurious dumping, compelling reasons existed which would lead to the conclusion that it is not in the Union interest to maintain measures against imports originating in the PRC.

2. **Interest of the Union industry**

(170) The Union industry has proven to be a viable industry. This was confirmed by the positive development of its economic situation observed during the period considered partly due to its efforts to be more competitive and the measures in place. It can reasonably be expected that the Union industry will continue to benefit from the measures to be maintained. Should the measures against imports originating in the PRC not be maintained, it is likely that the Union industry will suffer material injury from substantial volumes of dumped imports from the PRC, causing a serious deterioration of its financial situation given the undercutting margins established during the ERIP. The currently already negative profitability rates, return on investments and stocks will further decline and ultimately lead to the likely disappearance of the Union industry.

- (171) Accordingly, it is concluded that the maintenance of anti-dumping measures against the PRC would be clearly in the interest of the Union industry.

3. Interest of other parties

- (172) None of the 15 contacted importers/traders cooperated. None of other potential interested parties made themselves known during the investigation. There is no evidence suggesting that the measures in force would considerably affect the importers or consumers of the product concerned. In this context, it can be reasonably assumed that the main customers, i.e. large retail stores, will be able to pass on any price increase resulting from anti-dumping duties to the final consumer without impacting substantially on consumer's perception.

4. Conclusion on Union interest

- (173) On this basis, it can be concluded that there are no compelling reasons clearly indicating that maintaining the measures against the PRC would be against the overall Union interest.

H. ANTI-DUMPING MEASURES

- (174) All parties were informed of the essential facts and considerations on the basis of which it is intended to recommend that the existing measures be maintained on imports of the product concerned originating in the PRC and the repeal of the measures in force on imports of the product concerned originating in Ukraine. They were also granted a period to make representations.
- (175) It follows from the above that, as provided for by Article 11(2) and Article 11(3) of the basic Regulation, the anti-dumping measures applicable to imports of ironing boards originating in the People's Republic of China should be maintained and the anti-dumping duty in force on imports of ironing boards originating in Ukraine should be allowed to lapse,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of ironing boards, whether or not free-standing, with or without a steam soaking and/or heating top and/or blowing top, including sleeve boards, and essential parts thereof, i.e. the legs, the top and the iron rest, currently falling within CN codes ex 3924 90 00, ex 4421 90 98, ex 7323 93 00, ex 7323 99 00, ex 8516 79 70 and ex 8516 90 00 (TARIC codes 3924 90 00 10, 4421 90 98 10, 7323 93 00 10,

7323 99 00 10, 8516 79 70 10 and 8516 90 00 51) and originating in the People's Republic of China.

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, for products described in paragraph 1 and manufactured by the companies listed below shall be as follows:

Country	Manufacturer	Rate of duty (%)	TARIC additional code
People's Republic of China	Foshan City Gaoming Lihe Daily Necessities Co. Ltd., Foshan	34,9	A782
	Guangzhou Power Team Houseware Co. Ltd., Guangzhou	39,6	A783
	Since Hardware (Guangzhou) Co., Ltd., Guangzhou	35,8	A784
	Foshan Shunde Yongjian Housewares and Hardware Co. Ltd., Foshan	18,1	A785
	Zhejiang Harmonic Hardware Products Co. Ltd., Guzhou	26,5	A786
	Greenwood Houseware (Zhuhai) Ltd, Guangdong	22,7	A953
	All other companies	42,3	A999

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

Article 2

The anti-dumping proceeding concerning imports of ironing boards originating in Ukraine is hereby terminated and anti-dumping measures imposed on Ukraine by Regulation (EC) No 452/2007 are herewith repealed.

Article 3

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, 15 July 2013.

For the Council

The President

V. JUKNA

COUNCIL REGULATION (EU) No 696/2013**of 22 July 2013****amending Regulation (EC) No 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 thereof,

Having regard to the joint proposals from the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission,

Whereas:

- (1) Council Regulation (EC) No 329/2007 of 27 March 2007 concerning restrictive measures against the Democratic People's Republic of Korea ⁽¹⁾, gives effect to measures provided for in Council Common Position 2006/795/CFSP of 20 November 2006 concerning restrictive measures against the Democratic People's Republic of Korea ⁽²⁾, which was later repealed and replaced by Council Decision 2010/800/CFSP of 22 December 2010 concerning restrictive measures against the Democratic People's Republic of Korea ⁽³⁾.
- (2) On 22 April 2013, the Council adopted Decision 2013/183/CFSP concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2010/800/CFSP ⁽⁴⁾, renewing the existing measures and giving effect to United Nations Security Council (UNSC) Resolution 2094 (2013).
- (3) The restrictive measures include a prohibition on the provision of technical training, advice, services or technical assistance in relation to prohibited items and it is necessary to expand the scope of that prohibition to include other intermediary services.
- (4) The provision of financial services to additional persons and entities is prohibited, namely those acting on behalf of, or at the direction of designated persons and entities or entities owned or controlled by them, and it is necessary to add an additional listing criteria in Regulation (EC) No 329/2007 to that effect.
- (5) It is necessary to prohibit the establishment of new correspondent relationships with banks in the Democratic People's Republic of Korea ('North Korea') and the maintenance of correspondent relationships with banks in North Korea where there are reasonable grounds to believe that this could contribute to North Korea's nuclear-related, other weapons of mass

destruction-related or ballistic missile-related programmes or other prohibited activities. Furthermore, financial institutions of Member States shall be prohibited from opening bank accounts in North Korea.

- (6) It is necessary to inspect cargo originating in North Korea or destined for North Korea or brokered or facilitated by North Korea or its nationals, or by individuals or entities acting on their behalf, where there are reasonable grounds to believe that the cargo contains prohibited items. Accordingly, there should be a requirement to submit pre-arrival and pre-departure information. Where a vessel refuses an inspection, it should be denied entry.
- (7) It is necessary to prohibit any aircraft from taking off from, landing in or overflying the territory of the Union, if there are reasonable grounds to believe that the aircraft contains prohibited items.
- (8) Annex I to Regulation (EC) No 329/2007 lists all items, materials, equipment, goods and technology, including software, which are dual-use items or technology as defined in Council Regulation (EC) No 428/2009 ⁽⁵⁾ which are prohibited to be sold, supplied, transferred, or exported, to any person, entity or body in, or for use in, the North Korea in accordance with Article 2 of Regulation (EC) No 329/2007.
- (9) Annex Ia lists other items, materials, equipment, goods and technology which could contribute to North Korea's nuclear-related, other weapons of mass destruction-related or ballistic missile-related programmes which are also prohibited to be sold, supplied, transferred or exported. It is for the Union to take the necessary measures in order to determine the relevant items to be included in that Annex.
- (10) The list of items in Annex Ia to Regulation (EC) No 329/2007 should be amended to add the list of items in Annex I to this Regulation.
- (11) These measures fall within the scope of the Treaty on the Functioning of the European Union and, therefore, in particular with a view to ensuring their uniform application by economic operators in all Member States, regulatory action at the level of the Union is necessary in order to implement them.
- (12) Regulation (EC) No 329/2007 should therefore be amended accordingly,

⁽¹⁾ OJ L 88, 29.3.2007, p. 1.

⁽²⁾ OJ L 322, 22.11.2006, p. 32.

⁽³⁾ OJ L 341, 23.12.2010, p. 32.

⁽⁴⁾ OJ L 111, 23.4.2013, p. 52.

⁽⁵⁾ OJ L 134, 29.5.2009, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 329/2007 is amended as follows:

(1) in Article 1, the following point is added:

‘9. “brokering services” means:

- (i) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology or of financial and technical services, including from a third country to any other third country; or
- (ii) the selling or buying of goods and technology or of financial and technical services, including where they are located in third countries for their transfer to another third country;’;

(2) in Article 3(1), point (a) is replaced by the following:

‘(a) to provide, directly or indirectly, technical assistance and brokering services related to goods and technology listed in the EU Common List of Military Equipment or in Annexes I, Ia and Ib and to the provision, manufacture, maintenance and use of goods listed in the EU Common List of Military Equipment or in Annexes I, Ia, and Ib to any natural or legal person, entity or body in, or for use in, North Korea;’

(3) Article 3a is replaced by the following:

‘Article 3a

1. To prevent the transfer of goods and technology which are covered by the EU Common List of Military Equipment or the supply, sale, transfer, export or import of which is prohibited by this Regulation, and in addition to the obligation to provide the competent customs authorities with the pre-arrival and pre-departure information as determined in the relevant provisions concerning entry and exit summary declarations as well as customs declarations in Council Regulation (EEC) No 2913/92 (*) and in Commission Regulation (EEC) No 2454/93 (**), the person who provides the information referred to in paragraph 2 of this Article, shall declare whether the goods are covered by the EU Common List of Military Equipment or by this Regulation and, where their export is subject to authorisation, specify the particulars of the export licence granted.

2. The required additional elements referred to in this Article shall be submitted either in written form or using a customs declaration as appropriate.

3. Where there are reasonable grounds to believe that a vessel may contain items prohibited under this Regulation, it shall be prohibited to accept, or provide access to ports in the territory of the Union to:

(a) any vessel which has refused to be inspected after such inspection has been authorised by the vessel’s flag State; or

(b) any vessel flying the flag of North Korea which has refused to be inspected.

4. The prohibitions in paragraph 3 shall not restrict access to ports in case of an emergency.

5. The prohibitions in paragraph 3 shall not restrict access to ports where such access is required for inspection purposes.

6. The prohibitions in paragraph 3 shall not restrict any vessel flying the flag of a Member State from accessing ports of its flag state.

7. It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent paragraph 3.

(*) OJ L 302, 19.10.1992, p. 1.

(**) OJ L 253, 11.10.1993, p. 1.’;

(4) the following Articles are inserted:

‘Article 3b

The provision of bunkering or ship supply services, or any other servicing of vessels, to North Korean vessels is prohibited where the providers of the service have information, including from the competent customs authorities on the basis of the pre-arrival and pre-departure information referred to in Article 3a(1), that provides reasonable grounds to believe that the vessels carry items whose supply, sale, transfer or export is prohibited under this Regulation, unless the provision of such services is necessary for humanitarian purposes.

Article 3c

1. Except where prohibited by paragraph 8 of UN Security Council Resolution 1718 (2006), paragraphs 9, 10 and 23 of UN Security Council Resolution 1874 (2009), paragraph 9 of UN Security Council Resolution 2087 (2013), paragraphs 7 and 20 of UN Security Council Resolution 2094 (2013) or relevant measures under successor UN Security Council Resolutions, the competent authorities may authorise, under such terms and conditions as they deem appropriate, transactions in relation to goods and technology referred to in Article 2(1) of this Regulation or assistance or brokering services referred to in Article 3(1), provided that the goods and technology, assistance or brokering services are for food, agricultural, medical or other humanitarian purposes.

2. The Member State concerned shall inform the other Member States and the Commission, within four weeks, of authorisations granted under this Article.’;

(5) Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. If a derogation from Articles 2(1)(a) or 3(1)(a) or (b) is deemed necessary in a specific case, the seller, supplier, transferring party, exporter or service provider concerned may present a duly motivated request to the competent authorities of the Member State as indicated in the websites listed in Annex II. The Member State that received the request shall, if it deems that such derogation is justified, present a request for a specific approval to the UN Security Council.’;

(b) the following paragraph is added:

‘4. The competent authorities of the Member States may authorise, under such conditions as they deem appropriate, a transaction with regard to goods referred to in point 17 of Annex III provided that the goods are for humanitarian purposes or for official purposes of diplomatic or consular missions or international organisations enjoying immunities in accordance with international law.’;

(6) in Article 5a, paragraph 1 is amended as follows:

(a) points (a) and (b) are replaced by the following:

‘(a) to open a new bank account with a credit or financial institution domiciled in North Korea or any credit or financial institution referred to in Article 11a(2);

(b) to establish a new correspondent banking relationship with a credit or financial institution domiciled in North Korea or with any credit or financial institution referred to in Article 11a(2);’;

(b) the following points are added:

‘(c) to open a new representative office in North Korea, or to establish a new branch or subsidiary, in North Korea;

(d) to establish a new joint venture with a credit or financial institution domiciled in North Korea or with any credit or financial institution referred to in Article 11a(2);

(e) to maintain a correspondent banking relationship with a credit or financial institution domiciled in North Korea and any credit or financial institution referred to in Article 11a(2) if there is information that provides reasonable grounds to believe that this could contribute to North Korea’s nuclear-related, other weapons of mass destruction-related or ballistic missile-related programmes, or other prohibited activities by this Regulation or Decision 2013/183/CFSP.’;

(7) in Article 6, paragraphs 1 to 4 are replaced by the following:

‘1. All funds and economic resources belonging to, owned, held or controlled by the persons, entities and bodies listed in Annex IV shall be frozen. Annex IV shall include the persons, entities and bodies designated by the Sanctions Committee or the UN Security Council in accordance with paragraph 8(d) of UN Security Council Resolution 1718 (2006), and paragraph 8 of UN Security Council Resolution 2094 (2013).

2. All funds and economic resources belonging to, owned, held or controlled by the persons, entities and bodies listed in Annex V shall be frozen. Annex V shall include persons, entities and bodies not listed in Annex IV, who, in accordance with point (b) of Article 15(1) of Decision 2013/183/CFSP, have been identified by the Council:

(a) as responsible for, including through supporting or promoting, North Korea’s nuclear-related, other weapons of mass destruction-related or ballistic missile-related programmes, or persons, entities or bodies acting on their behalf or at their direction, or persons, entities or bodies owned or controlled by them, including through illicit means;

(b) as providing financial services or the transfer to, through or from the territory of the Union, or involving nationals of Member States or entities organised under their laws, or persons or financial institutions in the territory of the Union, of any financial or other assets or resources that could contribute to North Korea’s nuclear-related, other weapons of mass destruction-related or ballistic missile-related programmes, or persons, entities or bodies acting on their behalf or at their direction, or persons, entities or bodies owned or controlled by them; or

(c) as involved in, including through the provision of financial services, the supply to or from North Korea of arms and related material of all types, or of items, materials, equipment, goods and technology which could contribute to North Korea’s nuclear-related, other weapons of mass destruction-related or ballistic missile-related programmes to North Korea.

Annex V shall be reviewed at regular intervals and at least every 12 months.

2a. All funds and economic resources belonging to, owned, held or controlled by persons, entities or bodies in Annex Va shall be frozen. Annex Va shall include the persons, entities or bodies not covered by Annex IV or V who are working on behalf of or at the direction of a person, entity or body listed in Annex IV or V or

persons assisting in the evasion of sanctions or violating the provisions of this Regulation, or of Decision 2013/183/CSFP.

Annex Va shall be reviewed at regular intervals and at least every 12 months.

3. Annexes IV, V and Va shall include where available information on listed natural persons for the purpose of identifying sufficiently the persons concerned.

Such information may include:

- (a) surname and given names, including alias names and titles, if any;
- (b) date and place of birth;
- (c) nationality;
- (d) passport and identity card numbers;
- (e) fiscal and social security numbers;
- (f) gender;
- (g) address or other information on whereabouts;
- (h) function or profession;
- (i) date of designation.

Annexes IV, V and Va shall also include the grounds for listing, such as occupation.

Annexes IV, V and Va may also include information on identification purposes as set out in this paragraph on family members of the persons listed, provided that this information is necessary in a specific case for the sole purpose of verifying the identity of the listed natural person concerned.

4. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in Annexes IV, V and Va.;

(8) Article 7 is replaced by the following:

'Article 7

1. By way of derogation from Article 6, the competent authorities of the Member States, as indicated on the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources concerned are:

- (a) necessary to satisfy the basic needs of natural or legal persons, entities or bodies listed in Annex IV, V or Va and dependent family members of such natural persons, including payments for foodstuffs, rent or

mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges;

- (b) intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services; or
- (c) intended exclusively for payment of fees or services charges for routine holding or maintenance of frozen funds or economic resources; and
- (d) where the authorisation concerns a person, entity and body listed in Annex IV, the Member State concerned has notified the Sanctions Committee of that determination and its intention to grant an authorisation, and the Sanctions Committee has not objected to that course of action within five working days of notification.

2. By way of derogation from Article 6, the competent authorities of the Member States, as indicated on the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, after having determined that the funds or economic resources are necessary for extraordinary expenses, provided that:

- (a) where the authorisation concerns a person, entity or body listed in Annex IV, the Sanctions Committee has been notified of this determination by the member State concerned and that the determination has been approved by that Committee; and
- (b) where the authorisation concerns a person, entity or body listed in Annex V or Va, the Member State concerned has notified other Member States and the Commission of the grounds on which it considers that a specific authorisation should be granted, at least two weeks prior to the authorisation.

3. The Member State concerned shall inform other Member States and the Commission of any authorisation granted under paragraphs 1 and 2.;

(9) in Article 8, point (c) is replaced by the following:

'(c) the lien or judgement is not for the benefit of a person, entity or body listed in Annexes IV, V or Va;'

(10) in Article 11a, paragraph 1 is replaced by the following:

'1. Credit and financial institutions which fall within the scope of Article 16 shall, in their activities with credit and financial institutions referred to in paragraph 2, and in order to prevent such activities contributing to North Korea's nuclear-related, other weapons of mass destruction-related or ballistic missile-related programmes or to prevent other activities prohibited by this Regulation, or by Decision 2013/183/CFSP:

- (a) exercise continuous vigilance over account activity, particularly by means of their programmes on customer due diligence and obligations related to the prevention of money-laundering and the financing of terrorism;
- (b) require that in payment instructions all information fields which relate to the originator and beneficiary of the transaction in question be completed and, if that information is not supplied, refuse the transaction;
- (c) maintain all records of transactions for a period of five years and make them available to national authorities on request;
- (d) if they suspect or have reasonable grounds to suspect that funds are related to proliferation financing, promptly report their suspicions to the financial intelligence unit (FIU) or another competent authority designated by the Member State concerned, as indicated on the websites listed in Annex II, without prejudice to Article 3(1) or Article 6. The FIU or another competent authority shall serve as a national centre for receiving and analysing suspicious transaction reports regarding potential proliferation financing. The FIU or other such competent authority shall have access, directly or indirectly, on a timely basis to the financial, administrative and law enforcement information that it requires in order to properly undertake this function, including the analysis of suspicious transaction reports.;

(11) the following Article is inserted:

'Article 11b

1. Where there are reasonable grounds to believe that an aircraft may contain items whose supply, sale, transfer or export is prohibited under Articles 2, 4 or 4a, it shall be prohibited for that aircraft to:

- (a) fly over the territory of the Union; or
- (b) to take off from or land in the territory of the Union.

2. Paragraph 1 shall not restrict aircraft from making an emergency landing.

3. Paragraph 1 shall not restrict aircraft registered in Member State from landing for inspection of prohibited items.

4. It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent paragraph 1.;

(12) the following Article is inserted:

'Article 11c

1. The freezing of funds and economic resources or the refusal to make funds or economic resources available, carried out in good faith on the basis that such action is in accordance with this Regulation, shall not give rise to liability of any kind on the part of the natural or legal person, entity or body implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen or withheld as a result of negligence.

2. The measures set out in the present Regulation shall not give rise to liability of any kind on the part of the natural or legal persons, entities or bodies concerned, if they did not know, and had no reasonable cause to suspect, that their actions would infringe these prohibitions.;

(13) Annex Ia to Regulation (EC) No 329/2007 is amended in accordance with the text set out in Annex I to this Regulation.

Annex II to this Regulation is inserted as Annex Va to Regulation (EC) No 329/2007.

Article 2

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

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

Done at Brussels, 22 July 2013.

For the Council
The President
C. ASHTON

ANNEX I

Annex Ia to Regulation (EC) No 329/2007 is amended as follows:

— The following entries shall be inserted after entry LA1.024:

LA1.025	Titanium alloys, other than those specified in 1C002 and 1C202.	1C002
		1C202
LA1.026	Zirconium and zirconium alloys, other than those specified in 1C011, 1C111 and 1C234.	1C011
		1C111
		1C234
LA1.027	Explosive materials other than those specified in 1C239, or materials or mixtures containing more than 2 % by weight of such explosive materials, with a crystalline density higher than 1,5 g/cm ³ and with a detonation speed higher than 5 000 m/s.	1C239'

— The entry LA2.002 shall be replaced by the following:

LA2.002	Machine tools, other than those specified in 2B001 or 2B201 and any combination thereof, for removing (or cutting) metals, ceramics, or “composites” that, according to the manufacturer's technical specification, can be equipped with electronic devices for “numerical control”, having positioning accuracies of equal to or less (better) than 30 µm according to ISO 230/2 (1988) (1) or national equivalents along any linear axis.	2B001
		2B201'

— The following entry shall be inserted after entry LA6.012:

LA6.013	Lasers, other than those specified in 6A005 or 6A205.	6A005
		6A205'

ANNEX II

'ANNEX Va

LIST OF PERSONS, ENTITIES OR BODIES REFERRED TO IN ARTICLE 6(2a)

COUNCIL REGULATION (EU) No 697/2013**of 22 July 2013****amending Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 thereof,

Having regard to Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria ⁽¹⁾,

Having regard to the joint proposals from the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission,

Whereas:

- (1) On 18 January 2012, the Council adopted Regulation (EU) No 36/2012 ⁽²⁾ in order to give effect to Council Decision 2011/782/CFSP of 1 December 2011 concerning restrictive measures against Syria ⁽³⁾.
- (2) On 29 November 2012, the Council adopted Decision 2012/739/CFSP ⁽⁴⁾ which repealed and replaced Decision 2011/782/CFSP.
- (3) On 1 June 2013 Decision 2012/739/CFSP expired.
- (4) On 31 May 2013, the Council adopted Decision 2013/255/CFSP.
- (5) Annex IX to Regulation (EU) No 36/2012 lists items which are subject to prior authorisation prior to sale, supply, transfer or export in accordance with Article 2b of Regulation No 36/2012. That list should be expanded to include further items. An exception for products identified as consumer goods should be provided.
- (6) Those measures fall within the scope of the Treaty on the Functioning of the European Union, and regulatory action at the level of the Union is necessary in order to ensure the uniform application of such measures by economic operators in all Member States.
- (7) Regulation (EU) No 36/2012 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 36/2012 is amended as follows:

- (1) Article 2 is replaced by the following:

"Article 2

1. A Member State may prohibit or impose an authorisation requirement on the export, sale, supply or

transfer of equipment which might be used for internal repression other than those listed in Annex IA or Annex IX, whether or not originating in the Union, to any person, entity or body in Syria or for use in Syria.

2. A Member State may prohibit or impose an authorisation requirement on the provision of technical assistance, financing and financial assistance related to the equipment referred to in paragraph 1, to any person, entity or body in Syria or for use in Syria.";

- (2) Article 2a is replaced by the following:

"Article 2a

1. It shall be prohibited:

- (a) to sell, supply, transfer or export, directly or indirectly, equipment, goods or technology which might be used for internal repression or for the manufacture and maintenance of products which might be used for internal repression, as listed in Annex IA, whether or not originating in the Union, to any person, entity or body in Syria or for use in Syria;
- (b) to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in point (a).

2. By way of derogation from paragraph 1, the competent authorities in the Member States, as identified on the websites listed in Annex III, may grant, under such terms and conditions as they deem appropriate, an authorisation for a transaction in relation to equipment, goods or technology as listed in Annex IA, provided that the equipment, goods or technology are intended for food, agricultural, medical or other humanitarian purposes, or for the benefit of United Nations personnel, personnel of the Union or its Member States.";

- (3) in Article 2c paragraph 2 is replaced by the following:

- "2. The seizure and disposal of equipment, goods or technology, the supply, sale, transfer or export of which is prohibited by Article 2a of this Regulation may, in accordance with national legislation or the decision of a competent authority, be carried out at the expense of the person or entity referred to in paragraph 1 or, if it is not possible to recover these expenses from that person or entity, the expenses may, in accordance with national legislation, be recovered from any person or entity who

⁽¹⁾ OJ L 147, 1.6.2013, p. 14.

⁽²⁾ OJ L 16, 19.1.2012, p. 1.

⁽³⁾ OJ L 319, 2.12.2011, p. 56.

⁽⁴⁾ OJ L 330, 30.11.2012, p. 21.

assumes responsibility for the carriage of the goods or equipment in the attempted illicit supply, sale, transfer or export.";

(4) the following Article is inserted:

"Article 2d

A Member State may prohibit or impose an authorisation requirement on the export to Syria of dual-use items referred to in Article 4(2) of Regulation (EC) No 428/2009.";

(5) Article 3 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. It shall be prohibited:

- (a) to provide, directly or indirectly, technical assistance or brokering services related to equipment, goods or technology which might be used for internal repression or for the manufacture and maintenance of products which could be used for internal repression as listed in Annex IA, to any person, entity or body in Syria or for use in Syria;
- (b) to provide, directly or indirectly, financing or financial assistance related to the goods and technology listed in Annex IA, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, transfer or export of such items, or for any provision of related technical assistance to any person, entity or body in Syria or for use in Syria;
- (c) to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in points (a) and (b).";

(b) paragraph 2 is deleted;

(c) paragraph 3 is replaced by the following:

"3. By way of derogation from paragraph 1, the competent authorities of the Member States, as identified on the websites listed in Annex III, may grant, under such terms and conditions as they deem appropriate, an authorisation for technical assistance or brokering services, or financing or financial assistance related to equipment, goods or technology, as listed in Annex IA, provided that the equipment, goods or technology are intended for food, agricultural, medical or other humanitarian purposes, or for the benefit of United Nations personnel, personnel of the Union or its Member States.

The Member State concerned shall inform the other Member States and the Commission, within four weeks, of any authorisation granted under the first subparagraph.";

(6) the following Article is inserted:

"Article 6a

1. By way of derogation from Article 6, the competent authorities of the Member States as identified on the websites listed in Annex III, may authorise, under such terms and conditions as they deem appropriate, the import, purchase or transport of crude oil or petroleum products, or the provision of related financing or financial assistance, including financial derivatives, as well as insurance and reinsurance, provided that the following conditions are met:

- (a) on the basis of the information available to it, including information provided by the person, entity or body requesting the authorisation, the competent authority has determined that it is reasonable to conclude that:
 - (i) the activities concerned are for the purpose of providing assistance to the Syrian civilian population, in particular in view of meeting humanitarian concerns, assisting in the provision of basic services, reconstruction or restoring economic activity, or other civilian purposes;
 - (ii) the activities concerned do not entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a person, entity or body referred to in Article 14;
 - (iii) the activities concerned do not breach any of the prohibitions laid down in this Regulation;
- (b) the Member State concerned has consulted in advance the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces as regards, *inter alia*:
 - (i) the competent authority's determination under points (a) (i) and (ii);
 - (ii) the availability of information indicating that the activities concerned might entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a person, entity or body referred to in Article 2 of Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (*) or in Article 2 of Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network (**);

and the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces has given its views to the relevant Member State.

- (c) In the absence of the receipt of views from the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces within 30 days after the request was made to them, the competent authority may proceed with its decision on whether or not to issue the authorisation.

2. When applying the conditions under points (a) and (b) of paragraph 1, the competent authority shall require adequate information as regards the use of the authorisation granted, including information concerning the counterparts to the transaction.

3. The Member State concerned shall inform, within two weeks, the other Member States and the Commission of any authorisation granted under this Article.;

(*) OJ L 344, 28.12.2001, p. 70.

(**) OJ L 139, 29.5.2002, p. 9."

(7) the following Article is inserted:

"Article 9a

1. By way of derogation from Articles 8 and 9, the competent authorities of the Member States as identified on the websites listed in Annex III, may authorise, under such terms and conditions as they deem appropriate, the sale, supply, transfer or export of the key equipment or technology as listed in Annex VI, or the provision of related technical assistance or brokering services, or financing or financial assistance, provided that the following conditions are met:

- (a) on the basis of the information available to it, including information provided by the person, entity or body requesting the authorisation, the competent authority has determined that it is reasonable to conclude that:
- (i) the activities concerned are for the purpose of providing assistance to the Syrian civilian population, in particular in view of meeting humanitarian concerns, assisting in the provision of basic services, reconstruction or restoring economic activity, or other civilian purposes;
 - (ii) the activities concerned do not entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a person, entity or body referred to in Article 14;

- (iii) the activities concerned do not breach any of the prohibitions laid down in this Regulation;

- (b) the Member State concerned has consulted in advance the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces as regards, *inter alia*:

- (i) the competent authority's determination under points (a) (i) and (ii);
- (ii) the availability of information indicating that the activities concerned might entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a person, entity or body referred to in Article 2 of Regulation (EC) No 2580/2001 or Article 2 of Regulation (EC) No 881/2002;

and the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces has given its views to the relevant Member State.

- (c) In the absence of the receipt of views from the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces within 30 days after the request was made to them, the competent authority may proceed with its decision on whether or not to issue the authorisation.

2. When applying the conditions under points (a) and (b) of paragraph 1, the competent authority shall require adequate information as regards the use of the authorisation granted, including information concerning the end-user and the final destination of the delivery.

3. The Member State concerned shall inform, within two weeks, the other Member States and the Commission of any authorisation granted under this Article.;

(8) the following Article is inserted:

"Article 13a

1. By way of derogation from Article 13(1), the competent authorities of the Member States as identified on the websites listed in Annex III, may authorise, under such terms and conditions as they deem appropriate, the granting of any financial loan or credit to or the acquisition or extension of a participation in, or the creation of any joint venture with any Syrian person, entity or body referred to in point (a) of Article 13(2), provided that the following conditions are met:

- (a) on the basis of the information available to it, including information provided by the person, entity

or body requesting the authorisation, the competent authority has determined that it is reasonable to conclude that:

- (i) the activities concerned are for the purpose of providing assistance to the Syrian civilian population, in particular in view of meeting humanitarian concerns, assisting in the provision of basic services, reconstruction or restoring economic activity, or other civilian purposes;
 - (ii) the activities concerned do not entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a person, entity or body referred to in Article 14;
 - (iii) the activities concerned do not breach any of the prohibitions laid down in this Regulation;
- (b) the Member State concerned has consulted in advance the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces as regards, *inter alia*:
- (i) the competent authority's determination under points (a) (i) and (ii);
 - (ii) the availability of information indicating that the activities concerned might entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a person, entity or body referred to in Article 2 of Regulation (EC) No 2580/2001 or Article 2 of Regulation (EC) No 881/2002;

and the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces has given its views to the relevant Member State.

- (c) In the absence of the receipt of views from the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces within 30 days after the request was made to them, the competent authority may proceed with its decision on whether or not to issue the authorisation.

2. When applying the conditions under points (a) and (b) of paragraph 1, the competent authority shall require adequate information as regards the use of the authorisation granted, including information concerning the purpose of, and the counterparts to the transaction.

3. The Member State concerned shall inform, within two weeks, the other Member States and the Commission of any authorisation granted under this Article.";

(9) the following Article is inserted:

"Article 25a

1. By way of derogation from points (a) and (c) of Article 25(1), the competent authorities of the Member States as identified on the websites listed in Annex III, may authorise, under such terms and conditions as they deem appropriate, the opening of a new bank account or a new representative office, or the establishment of a new branch or subsidiary, provided that the following conditions are met:

- (a) on the basis of the information available to it, including information provided by the person, entity or body requesting the authorisation, the competent authority has determined that it is reasonable to conclude that:
 - (i) the activities concerned are for the purpose of providing assistance to the Syrian civilian population, in particular in view of meeting humanitarian concerns, assisting in the provision of basic services, reconstruction or restoring economic activity, or other civilian purposes;
 - (ii) the activities concerned do not entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a person, entity or body referred to in Article 14;
 - (iii) the activities concerned do not breach any of the prohibitions laid down in this Regulation;
- (b) the Member State concerned has consulted in advance the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces as regards, *inter alia*:
 - (i) the competent authority's determination under points (a) (i) and (ii);
 - (ii) the availability of information indicating that the activities concerned might entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a person, entity or body referred to in Article 2 of Regulation (EC) No 2580/2001 or Article 2 of Regulation (EC) No 881/2002;

and the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces has given its views to the relevant Member State.

- (c) In the absence of the receipt of views from the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces within 30 days after the request was made to them, the competent authority may proceed with its decision on whether or not to issue the authorisation.

2. When applying the conditions under points (a) and (b) of paragraph 1, the competent authority shall require adequate information as regards the use of the authorisation granted, including information concerning the purpose of, and the counterparts to the activities concerned.

3. The Member State concerned shall inform, within two weeks, the other Member States and the Commission of any authorisation granted under this Article.”;

(10) Annex I is deleted;

(11) Annex IX is amended as follows:

(a) the following paragraph is inserted below the title "List of Equipment, Goods and Technology Referred to in Article 2b”:

"The list set out in this Annex shall not include products identified as consumer goods packaged for retail sale for personal use or packaged for individual use, with the exception of isopropanol.”;

(b) in Section IX.A1 "Materials, chemicals, 'micro-organisms' and 'toxins'", the entries set out in Annex I to this Regulation are added as point IX.A1.004;

(c) in Section IX.A2 "Materials Processing", the entry set out in Annex II to this Regulation is added as point IX.A2.010.

Article 2

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

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

Done at Brussels, 22 July 2013.

For the Council
The President
C. ASHTON

ANNEX I

Entries referred to in point (11)(b)

Separate chemically defined compounds according to Note 1 to Chapters 28 and 29 of the Combined Nomenclature ⁽¹⁾, at 90 % concentration or greater, unless otherwise indicated, as follows:

Acetone,	(CAS RN 67-64-1)	(CN code 2914 11 00)
Acetylene,	(CAS RN 74-86-2)	(CN code 2901 29 00)
Ammonia,	(CAS RN 7664-41-7)	(CN code 2814 10 00)
Antimony,	(CAS RN 7440-36-0)	(heading 8110)
Benzaldehyde,	(CAS RN 100-52-7)	(CN code 2912 21 00)
Benzoin,	(CAS RN 119-53-9)	(CN code 2914 40 90)
1-Butanol,	(CAS RN 71-36-3)	(CN code 2905 13 00)
2-Butanol,	(CAS RN 78-92-2)	(CN code 2905 14 90)
Iso-Butanol,	(CAS RN 78-83-1)	(CN code 2905 14 90)
Tert-Butanol,	(CAS RN 75-65-0)	(CN code 2905 14 10)
Calcium carbide,	(CAS RN 75-20-7)	(CN code 2849 10 00)
Carbon monoxide,	(CAS RN 630-08-0)	(CN code 2811 29 90)
Chlorine,	(CAS RN 7782-50-5)	(CN code 2801 10 00)
Cyclohexanol,	(CAS RN 108-93-0)	(CN code 2906 12 00)
Dicyclohexylamine (DCA),	(CAS RN 101-83-7)	(CN code 2921 30 99)
Ethanol,	(CAS RN 64-17-5)	(CN code 2207 10 00)
Ethylene,	(CAS RN 74-85-1)	(CN code 2901 21 00)
Ethylene oxide,	(CAS RN 75-21-8)	(CN code 2910 10 00)
Fluoroapatite,	(CAS RN 1306-05-4)	(CN code 2835 39 00)
Hydrogen chloride,	(CAS RN 7647-01-0)	(CN code 2806 10 00)
Hydrogen sulfide,	(CAS RN 7783-06-4)	(CN code 2811 19 80)
Isopropanol, 95 % concentration or greater,	(CAS RN 67-63-0)	(CN code 2905 12 00)
Mandelic acid,	(CAS RN 90-64-2)	(CN code 2918 19 98)
Methanol,	(CAS RN 67-56-1)	(CN code 2905 11 00)
Methyl chloride,	(CAS RN 74-87-3)	(CN code 2903 11 00)

⁽¹⁾ As set out in the Commission Implementing Regulation (EU) No 927/2012 of 9 October 2012 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 304, 31.10.2012, p. 1).

Methyl iodide,	(CAS RN 74-88-4)	(CN code 2903 39 90)
Methyl mercaptan,	(CAS RN 74-93-1)	(CN code 2930 90 99)
Monoethyleneglycol,	(CAS RN 107-21-1)	(CN code 2905 31 00)
Oxalyl chloride,	(CAS RN 79-37-8)	(CN code 2917 19 90)
Potassium sulphide,	(CAS RN 1312-73-8)	(CN code 2830 90 85)
Potassium thiocyanate (KSCN),	(CAS RN 333-20-0)	(CN code 2842 90 80)
Sodium hypochlorite,	(CAS RN 7681-52-9)	(CN code 2828 90 00)
Sulphur,	(CAS RN 7704-34-9)	(CN code 2802 00 00)
Sulphur dioxide,	(CAS RN 7446-09-5)	(CN code 2811 29 05)
Sulphur trioxide,	(CAS RN 7446-11-9)	(CN code 2811 29 10)
Thiophosphoryl chloride,	(CAS RN 3982-91-0)	(CN code 2853 00 90)
Tri-isobutyl phosphite,	(CAS RN 1606-96-8)	(CN code 2920 90 85)
White/yellow phosphorus,	(CAS RN 12185-10-3, 7723-14-0)	(CN code 2804 70 00)

ANNEX II

Entry referred to in point (11)(c)

IX.A2.010	Equipment Laboratory equipment, including parts and accessories for such equipment, for the (destructive or non-destructive) analysis or detection of chemical substances, with the exception of equipment, including parts or accessories, specifically designed for medical use.
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COMMISSION IMPLEMENTING REGULATION (EU) No 698/2013

of 19 July 2013

amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) Regulation (EEC) No 2658/87 established a nomenclature of goods, hereinafter referred to as the Combined Nomenclature, which is set out in Annex I to this Regulation.
- (2) The judgment of the Court of Justice of 17 December 2009 in Joined Cases C-410/08 to C-412/08 ('Swiss Caps') presented a new paradigm for the classification of 'food supplements'.
- (3) On the one hand, paragraph 29 of this judgment states that *'the intended use of an article may constitute an objective criterion for the classification if it is inherent to the article'*. On the other hand, paragraph 32 states that the presentation in capsules is *'a decisive factor which reveals their function as a food supplement, since it determines the dosage of the edible preparations, the way in which they are absorbed and the place where they are supposed to become active'*.
- (4) Consequently, pursuant to the Court's ruling, products that are used as food supplements to maintain general health or well-being and that are presented in capsules are classified under heading 2106 as *'food preparations not elsewhere specified or included'*.
- (5) However, tariff classification problems could occur in case of the classification of products with the same

composition, the same purpose, containing a measured dose, but presented in tablets, pastilles or pills.

- (6) Therefore, in order to ensure a consistent interpretation of the Combined Nomenclature, the classification of food preparations presented in measured doses, such as capsules, tablets, pastilles and pills and which are intended for use as food supplements, should take into account the criteria developed in Joined Cases C-410/08 to C-412/08 ('Swiss Caps').
- (7) Consequently, a new Additional Note should be inserted in Chapter 21 of the Combined Nomenclature to ensure a uniform interpretation throughout the territory of the Union.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

In Chapter 21 of the Combined Nomenclature set out in Annex I to Regulation (EEC) No 2658/87, the following Additional Note 5 is inserted:

- '5. Other food preparations presented in measured doses, such as, capsules, tablets, pastilles and pills, and which are intended for use as food supplements are to be classified under heading 2106, unless elsewhere specified or included.'

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, 19 July 2013.

For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

COMMISSION IMPLEMENTING REGULATION (EU) No 699/2013
of 19 July 2013
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States which is not in accordance with this Regulation can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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, 19 July 2013.

*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission*

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of goods	Classification (CN code)	Reasons
(1)	(2)	(3)
1. Cat litter composed of natural bentonite clay that has been dried and treated with an anti-bacterial agent and mixed with activated carbon to prevent the growth of bacteria and odour. The bentonite clay constitutes more than 94 % by weight of the product. The product is sold to consumers in various pack sizes.	3824 90 97	Classification is determined by the General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 3824, 3824 90 and 3824 90 97. The product has been obtained by mixing of bentonite clay with an anti-bacterial agent and activated carbon. Classification as other clays of heading 2508 is therefore excluded (Note 1 to Chapter 25). The addition of an anti-bacterial agent and activated carbon does not alter the form or the character of the constituent material. Classification of the product under heading 6815 as an article of stone or of mineral substances not elsewhere specified is therefore also excluded (see also Harmonised System Explanatory Notes to Chapter 68, General, third paragraph). The product is therefore to be classified under CN code 3824 90 97 as chemical products and preparations of the chemical or allied industries, not elsewhere specified or included.
2. Cat litter composed of round and oval shaped translucent granules of silicon dioxide (silica gel). The product includes a visible quantity of coloured granules. The coloured granules are obtained by the addition of a blue dye. The product is sold to consumers in various pack sizes.	3824 90 97	Classification is determined by the General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 3824, 3824 90 and 3824 90 97. The blue colour is added solely for commercial or promotional reasons but not for identification of the silicon dioxide. Moreover, silicon dioxide in granular form does not pose a threat to safety. Classification under heading 2811 is therefore excluded (Note 1(e) to Chapter 28). The product is therefore to be classified under CN code 3824 90 97 as chemical products and preparations of the chemical or allied industries, not elsewhere specified or included.

COMMISSION IMPLEMENTING REGULATION (EU) No 700/2013**of 22 July 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, 22 July 2013.

*For the Commission,
On behalf of the President,*

*Jerzy PLEWA
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
0707 00 05	TR	91,2
	ZZ	91,2
0709 93 10	TR	130,5
	ZZ	130,5
0805 50 10	AR	83,3
	TR	70,0
	UY	77,5
	ZA	98,9
	ZZ	82,4
0808 10 80	AR	151,6
	BR	110,5
	CL	134,3
	CN	96,1
	NZ	138,0
	US	140,3
	ZA	117,0
	ZZ	126,8
0808 30 90	AR	97,7
	CL	142,8
	CN	77,3
	NZ	162,9
	TR	174,5
	ZA	94,7
	ZZ	125,0
0809 10 00	TR	194,3
	ZZ	194,3
0809 29 00	TR	337,1
	ZZ	337,1
0809 30	TR	181,6
	ZZ	181,6
0809 40 05	BA	86,7
	MK	99,6
	TR	118,8
	XS	103,8
	ZZ	102,2

⁽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'.

DECISIONS

COUNCIL DECISION 2013/391/CFSP

of 22 July 2013

in support of the practical implementation of United Nations Security Council Resolution 1540 (2004) on non-proliferation of weapons of mass destruction and their means of delivery

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 26(2) and 31(1) thereof,

Having regard to the proposal of the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 12 December 2003, the European Council adopted the EU strategy against the proliferation of weapons of mass destruction, Chapter III of which contains a list of measures to combat such proliferation which need to be taken both within the Union and in third countries.
- (2) The Union is actively implementing this strategy and is giving effect to the measures listed in Chapter III thereof, in particular by releasing financial resources to support specific projects conducted by multilateral institutions, providing States in need with technical assistance and expertise with regard to a wide range of non-proliferation measures, and fostering the role of the United Nations Security Council.
- (3) On 28 April 2004, the United Nations Security Council adopted Resolution 1540 (2004) ('UNSCR 1540 (2004)'), which was the first international instrument to deal in an integrated and comprehensive manner with weapons of mass destruction, their means of delivery and related materials. UNSCR 1540 (2004) established binding obligations for all States which aimed to prevent and deter non-State actors from obtaining access to such weapons and weapon-related material. It also called upon States to present the Committee of the Security Council established by UNSCR 1540 (2004) ('the 1540 Committee') with a report on steps which they have taken or intend to take to implement UNSCR 1540 (2004).
- (4) On 27 April 2006, the United Nations Security Council adopted Resolution 1673 (2006) and decided that the

1540 Committee should intensify its efforts to promote the full implementation of UNSCR 1540 (2004) through programmes of work, outreach, assistance, dialogue and cooperation. It also invited the 1540 Committee to explore with States and international, regional and sub-regional organisations the possibility of sharing experience and lessons learned, and the availability of programmes which might facilitate the implementation of UNSCR 1540 (2004).

- (5) On 20 April 2011, the UN Security Council adopted Resolution 1977 (2011) and decided to extend the mandate of the 1540 Committee for a period of 10 years until 25 April 2021. It also decided that the 1540 Committee was to continue to intensify its efforts to promote the full implementation by all States of UNSCR 1540 (2004), in particular on areas such as: (a) accountability, (b) physical protection, (c) border controls and law enforcement efforts and (d) national export and trans-shipment controls including controls on providing funds and services such as financing to such exports and trans-shippments.
- (6) The implementation of Council Joint Action 2006/419/CFSP of 12 June 2006 in support of the implementation of the United Nations Security Council Resolution 1540 (2004) and in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction ⁽¹⁾ and Council Joint Action 2008/368/CFSP of 14 May 2008 in support of the implementation of the United Nations Security Council Resolution 1540 (2004) and in the framework of the implementation of the EU strategy against proliferation of weapons of mass destruction ⁽²⁾ contributed to diminishing significantly the number of non-reporting States and the number of States which did not submit additional information required by the 1540 Committee following their submission of incomplete reports.
- (7) The Office for Disarmament Affairs within the United Nations Secretariat, which is responsible for providing the 1540 Committee and its experts with substantive and logistical support, should be entrusted with the technical implementation of the projects to be carried out under this Decision.

⁽¹⁾ OJ L 165, 17.6.2006, p. 30.

⁽²⁾ OJ L 127, 15.5.2008, p. 78.

- (8) This Decision should be implemented in accordance with the Financial and Administrative Framework Agreement concluded by the European Commission with the United Nations concerning the management of financial contributions by the Union to programmes or projects administered by the United Nations,

HAS ADOPTED THIS DECISION:

Article 1

1. In accordance with the EU strategy against the proliferation of weapons of mass destruction, which sets the objective of fostering the role of the UN Security Council and of enhancing its expertise in meeting the challenges of proliferation, the Union shall further support the implementation of United Nations Security Council Resolution 1540 (2004) ('UNSCR 1540 (2004)') and United Nations Security Council Resolution 1977 (2011).

2. The projects in support of UNSCR 1540 (2004), corresponding to measures of the EU strategy, shall consist of sub-regional workshops, country visits, meetings, events, training and public relations efforts.

3. The aims of the projects shall consist of:

- enhancing the relevant national and regional efforts and capabilities primarily through capacity-building and assistance facilitation;
- contributing to the practical implementation of specific recommendations of the 2009 Comprehensive Review of the status of implementation of UNSCR 1540 (2004), in particular in the areas of technical assistance, international cooperation and raising public awareness;
- initiating, developing and implementing National Action Plans upon States' request.

4. A detailed description of the projects is set out in the Annex.

Article 2

1. The High Representative of the Union for Foreign Affairs and Security Policy (hereinafter 'the High Representative') shall be responsible for the implementation of this Decision.

2. The technical implementation of the projects referred to in Article 1(2) shall be carried out by the UN Secretariat (Office for Disarmament Affairs) ('UN Secretariat (ODA)'). It shall perform this task under the responsibility and the control of the High Representative.

3. For this purpose, the High Representative shall enter into the necessary arrangements with the UN Secretariat (ODA).

Article 3

1. The financial reference amount for the implementation of the projects referred to in Article 1(2) shall be EUR 750 000 to be funded from the general budget of the European Union.

2. The expenditure financed by the amount stipulated in paragraph 1 shall be managed in accordance with the procedures and rules applicable to the general budget of the European Union.

3. The Commission shall supervise the proper management of the expenditure referred to in paragraph 2. For this purpose, the Commission shall conclude a financing agreement with the UN Secretariat (ODA). That financing agreement shall stipulate that the UN Secretariat (ODA) is to ensure visibility of the Union contribution, appropriate to its size.

4. The Commission shall endeavour to conclude the financing agreement referred to in paragraph 3 as soon as possible after the entry into force of this Decision. It shall inform the Council of any difficulties in that process and of the date of conclusion of the financing agreement.

Article 4

The High Representative shall report to the Council on the implementation of this Decision on the basis of regular reports prepared by the UN Secretariat (ODA). Those reports shall form the basis for the evaluation carried out by the Council. The Commission shall provide information on the financial aspects of the projects referred to in Article 1(2).

Article 5

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

2. This Decision shall expire 24 months after the conclusion of the financing agreement referred to in Article 3(3), or three months after the date of its adoption if no financing agreement has been concluded within that period.

Done at Brussels, 22 July 2013.

For the Council
The President
C. ASHTON

ANNEX

1. OBJECTIVES

The overall objectives of this Decision are to promote the implementation of United Nations Security Council resolutions 1540 (2004) ('UNSCR 1540 (2004)') and 1977 (2011) ('UNSCR 1977 (2011)') within the framework of the implementation of the EU strategy against proliferation of weapons of mass destruction through specific measures with the following specific aims: to enhance the relevant national and regional efforts and capabilities primarily through capacity-building and assistance facilitation; to contribute to the practical implementation of specific recommendations of the 2009 Comprehensive Review of the status of implementation of UNSCR 1540 (2004), in particular in the areas of technical assistance, international cooperation and raising public awareness.

2. DESCRIPTION OF THE MEASURES**2.1. Strengthening of capacities for national implementation and sub-regional coordination****2.1.1. Objective of the measure**

- To support country-specific implementation activities, including the development of national action plans and of a sustained national and sub-regional implementation process;
- To enhance international cooperation including the role of the 1540 Committee in the implementation of UNSCR 1540 (2004).

2.1.2. Description of the measure

Facilitation by UNODA, in cooperation, as appropriate, with other international, regional and sub-regional organisations and entities, of practical steps to implement key requirements of UNSCR 1540 (2004) at national level, in particular through support of country visits or country-specific activities to be conducted by the 1540 Committee, with the consent of the States concerned. It is envisaged to support five country visits (each lasting 4 days). Depending on a specific country and decisions of the 1540 Committee, a country visit or country-specific activities will contribute to the national implementation process through: (a) contributions to awareness-raising by means of tailored dialogues with different actors involved in the national implementation of UNSCR 1540 (2004); (b) examination of national measures and mechanisms used to implement that resolution and identification of specific challenges faced by the national authorities as well as possible options to remedy them; and (c) facilitation of the preparation of voluntary national action plans and other measures decided by the visited country.

Organisation by UNODA, in cooperation, as appropriate, with other international, regional and sub-regional organisations and entities, meetings in specific sub-regions based upon the outcome of the previous capacity-building workshops in the specific sub-regions. It is envisaged to conduct three follow-up meetings in the selected sub-regions (Africa, the Gulf and the Middle East, South East Europe and Latin America). Each meeting will be tailored to meet the actual requirements of the sub-region focusing on areas that are likely to achieve practical results. Meetings will be conducted in conjunction with in-country technical discussions to explore specific measures to sustain progress in the implementation of UNSCR 1540 (2004). The in-country discussions will be organised in response to invitations by interested Member States.

The UN ODA will develop UNSCR 1540 (2004) activities in cooperation with other international organisations and agencies, including the OSCE, IAEA, OPCW, WHO, FAO and OIE, to ensure effective synergies and avoid duplication.

As appropriate, synergies will be sought with the activities of the regional Chemical, Biological, Radiological and Nuclear (CBRN) 'Centres of Excellence', which are currently being set up under the Instrument for Stability as well as with other EU-sponsored programmes in this field.

2.1.3. Results of the measure

Improved implementation of UNSCR 1540 (2004) through additional steps to be undertaken by States towards its full implementation; development of effective and realistic national action plans or road maps for the implementation of the key requirements of that resolution; enhanced regional coordinated approaches to the implementation of UNSCR 1540 (2004); and the establishment of effective partnerships between participating States and assistance providers.

2.2. Increased capacity-building to establish and maintain physical protection and accounting of sensitive dual-use materials

2.2.1. Objective of the measure

To promote capacity-building on national and regional levels to advance full implementation of UNSCR 1540 (2004) by focusing on one of the resolution's key areas, namely, the physical protection and accounting of 'related materials'. UNSCR 1540 (2004) contains specific provisions (operational paragraph 3, subparagraphs a) and b)) obliging all States to establish appropriate controls over materials, equipment and technology which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery. To this end, States are required to: (a) develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport; and (b) develop and maintain appropriate effective physical protection measures.

2.2.2. Description of the measure

Organisation by UNODA of two sub-regional workshops (Central America, South East Asia and Latin America) focusing on the physical protection and accounting of 'related materials'. Through experience-sharing on national policies and practice related to accounting, security and protection of relevant biological, chemical and nuclear materials, the measure will promote integrated national approaches based on good practices and lessons learned.

The importance of cooperation and interaction with international organisations such as the IAEA, OPCW, WHO, FAO, OIE and the OSCE will also be emphasized, as appropriate. Each workshop will be organised in conjunction with rounds of relevant technical discussions with participating countries taking into full consideration national specificities. The in-country discussions will be organised in response to invitations by interested Member States in relevant sub-regions.

As appropriate, synergies will be sought with the activities of the regional CBRN 'Centres of Excellence', which are currently being set up under the Instrument for Stability as well as with other EU-sponsored programmes in this field.

2.2.3. Results of the measure

Improved national efforts and enhanced capacities to implement appropriate checks over materials, equipment and technology which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery; identification of effective and efficient practices for accounting, securing and protecting 'related materials'; increased security of relevant materials at national and regional levels; increased regional and international partnerships in relevant areas; and contribution to efforts to increase global CBRN security.

2.3. Support for practical implementation of recommendations of the 2009 Comprehensive Review of the status of implementation of UNSCR 1540 (2004)

2.3.1. Objective of the measure

To support the practical implementation of the 2009 Comprehensive Review recommendations;

To enhance international cooperation and raise public awareness of the importance of the implementation of UNSCR 1540 (2004).

2.3.2. Description of the measure

UNSCR 1977 (2011) and the Final Document of the 2009 Comprehensive Review envisage a number of specific activities in implementation of key requirements of UNSCR 1540 (2004). The measure includes specific projects to support such activities including through sponsoring meetings/events, training and public relations efforts. Subject, as appropriate, to the 1540 Committee's decisions and recommendations, the projects would include:

- organisation by UNODA of events to bring together those offering and seeking assistance and meetings of current or prospective partners (States, international and regional organisations);
- UNODA-organised meetings to support efforts to enhance the cooperation of the 1540 Committee with international non-proliferation mechanisms and other international and regional organisations;
- organisation or sponsorship by UNODA of a workshop of representatives of civil society, academia and industry;

- sponsorship by UNODA of participation of national officials in training courses and other capacity-building activities;
- sponsorship of an electronic journal on UNSCR 1540 (2004) implementation issues.

As appropriate, synergies will be sought with the activities of the regional CBRN 'Centres of Excellence', which are currently being set up under the Instrument for Stability as well as with other EU-sponsored programmes in this field.

2.3.3. *Results of the measure*

Implementation of specific measures agreed at the 2009 Comprehensive Review; more diverse means for facilitating technical assistance; provision of UNSCR 1540 (2004)-focussed training to national officials; greater involvement of representatives of civil society, academia and industry in international, regional and national UNSCR 1540 (2004) implementation efforts; enhanced public awareness of importance of full implementation of UNSCR 1540 (2004).

3. **PARTNERS IN THE MEASURES**

- UN Security Council and its 1540 Committee;
- Participating governments from respective sub-regions;
- Governments and organisations offering assistance;
- United Nations, relevant international, regional and sub-regional organisations;
- Non-governmental organisations and civil society entities.

4. **BENEFICIARIES OF THE MEASURES**

- Member States, government officials;
- 1540 Committee and other UN entities;
- International, regional and sub-regional organisations;
- Governments and organisations providing and receiving technical assistance under UNSCR 1540 (2004);
- Civil society, academia and relevant industries.

5. **VENUE**

UNODA will select potential venues for the meetings, workshops and other events. The criteria used for choosing the venues will include the willingness and commitment of a relevant State in a particular region to host the event. Specific locations of country visits or country-specific activities will depend on invitations from interested Member States and, as appropriate, on decisions of the 1540 Committee.

6. **DURATION**

The total estimated duration of the project is 24 months.

COUNCIL DECISION

of 22 July 2013

fixing the date of effect of Decision 2008/633/JHA concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences

(2013/392/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences ⁽¹⁾, and in particular Article 18(2) thereof,

Whereas:

- (1) Decision 2008/633/JHA provides that it shall take effect from a date to be determined by the Council once the Commission has informed the Council that 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) ⁽²⁾ has entered into force and is fully applicable.
- (2) By letter of 2 July 2013, the Commission informed the Council that Regulation (EC) No 767/2008 has entered into force and is fully applicable as from 27 September 2011.
- (3) 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 H, of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement ⁽⁴⁾.

- (4) 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 H, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁶⁾.
- (5) 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* ⁽⁷⁾ which fall within the area referred to in Article 1, point H, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ⁽⁸⁾.
- (6) In accordance with Articles 1 and 2 of 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, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Decision whether it will implement it in its national law.
- (7) 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 Ireland to take part in some of the provisions of the Schengen *acquis* ⁽⁹⁾; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

⁽¹⁾ OJ L 218, 13.8.2008, p. 129.

⁽²⁾ OJ L 218, 13.8.2008, p. 60.

⁽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. 21.

⁽⁸⁾ OJ L 160, 18.6.2011, p. 19.

⁽⁹⁾ OJ L 131, 1.6.2000, p. 43.

- (8) 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* ⁽¹⁾; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

HAS ADOPTED THIS DECISION:

Article 1

Decision 2008/633/JHA shall take effect from 1 September 2013.

Article 2

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

- (9) This Decision should not affect the position of the Member States in respect of which Regulation (EC) No 767/2008 has not yet been put into effect. In particular it should not affect the application of Article 6 of the Decision 2008/633/JHA with regard to those Member States,

Done at Brussels, 22 July 2013.

For the Council
The President
C. ASHTON

⁽¹⁾ OJ L 64, 7.3.2002, p. 20.

COUNCIL DECISION 2013/393/CFSP**of 22 July 2013****amending Decision 2013/382/CFSP extending the mandate of the European Union Special Representative in Afghanistan**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28, 31(2) and 33 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 22 March 2010, the Council adopted Decision 2010/168/CFSP ⁽¹⁾ appointing Mr Vygaudas UŠACKAS as the European Union Special Representative (EUSR) in Afghanistan.
- (2) On 15 July 2013, the Council adopted Decision 2013/382/CFSP ⁽²⁾ extending the mandate of the EUSR until 30 June 2014.
- (3) A new EUSR in Afghanistan should be appointed for the period from 1 September 2013 to 30 June 2014.
- (4) Decision 2013/382/CFSP should be amended accordingly.
- (5) The EUSR will implement his mandate in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Article 1 of Decision 2013/382/CFSP is replaced by the following:

*'Article 1***European Union Special Representative**

1. The mandate of Mr Vygaudas UŠACKAS as the EUSR in Afghanistan is hereby extended until 31 August 2013.
2. Mr Franz-Michael SKJOLD MELLBIN is hereby appointed as EUSR in Afghanistan for the period from 1 September 2013 to 30 June 2014.
3. The mandate of the EUSR may be terminated earlier, if the Council so decides, on a proposal of the High Representative of the Union for Foreign Affairs and Security Policy (HR).'

*Article 2***Entry into force**

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

Done at Brussels, 22 July 2013.

For the Council
The President
C. ASHTON

⁽¹⁾ OJ L 75, 23.3.2010, p. 22.

⁽²⁾ OJ L 193, 16.7.2013, p. 22.

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2013 OF THE EUROPEAN UNION/SWITZERLAND STATISTICAL COMMITTEE

of 12 June 2013

replacing Annex A to the Agreement between the European Community and the Swiss
Confederation on cooperation in the field of statistics

(2013/394/EU)

THE EUROPEAN UNION/SWITZERLAND STATISTICAL COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics ⁽¹⁾, hereinafter referred to as 'the Agreement', and in particular Article 4(4) thereof,

Whereas:

- (1) The Agreement entered into force on 1 January 2007 and contains Annex A concerning legal acts in the field of statistics.

- (2) New legal acts in the field of statistics have been adopted and should be referred to in Annex A. Consequently, Annex A should be amended,

HAS DECIDED AS FOLLOWS:

Article 1

Annex A to the Agreement is replaced by the Annex to this Decision.

Article 2

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

Done at Geneva, on 12 June 2013.

For the Joint Committee

The Head of the EU Delegation
W. RADERMACHER

The Head of the Swiss Delegation
F. BAUMGARTNER

⁽¹⁾ OJ L 90, 28.3.2006, p. 2.

ANNEX

'ANNEX A

LEGAL ACTS IN THE FIELD OF STATISTICS REFERRED TO IN ARTICLE 2**SECTORAL ADAPTATION**

1. By virtue of the Treaty of Lisbon, entered into force on 1 December 2009, the European Union shall replace and succeed the European Community.
2. The term 'Member State(s)' contained in the acts referred to in this Annex shall be understood to include Switzerland, in addition to its meaning in the relevant European Union acts.
3. The Statistical Programme Committee (SPC) referred to in Article 3(2) of this Agreement has been replaced by the European Statistical System Committee (ESS Committee) established by Article 7(1) of Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities ⁽¹⁾.
4. The Community statistical programme referred to in Article 5(1) and (2), and in Article 8(1) of this Agreement has been replaced by the European statistical programme provided for in Article 13 of Regulation (EC) No 223/2009.
5. The Joint Committee notes that the rules governing the handling of statistics from Switzerland referred to in Article 5(3) of this Agreement are now provided for in Regulation (EC) No 223/2009 without prejudice to more specific rules which are referred to in this Annex.
6. References to the 'Nomenclature of the Economic Activities in the European Communities (NACE Rev. 1)' shall, except where otherwise provided, be read as references to 'Nomenclature of Economic Activities in the European Communities (NACE Rev. 2)', as defined by Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains ⁽²⁾. The referred code numbers shall be read as the corresponding converted code numbers in NACE Rev. 2.
7. Provisions laying down by whom the costs for carrying out surveys and the like shall be borne shall not apply for the purposes of this Agreement.

ACTS REFERRED TO**BUSINESS STATISTICS**

- 32008 R 0295: Regulation (EC) No 295/2008 of the European Parliament and of the Council of 11 March 2008 concerning structural business statistics (recast) (OJ L 97, 9.4.2008, p. 13), as amended by:
- 32009 R 0251: Commission Regulation (EC) No 251/2009 of 11 March 2009 (OJ L 86, 31.3.2009, p. 170).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Switzerland shall not be bound by the regional breakdown of the data required by this Regulation;
- (b) Switzerland is exempted from providing data at the 4-digit level of the NACE Rev. 2;
- (c) Switzerland is exempted from providing data required by this Regulation for kind of activity units;
- (d) For Annex IX, variables 11910, 11930, 16910, 16911, 16930 and 16931, Switzerland shall supply data having as reference year 2011;
- (e) Under Annex VII, Switzerland is exempted from providing data 'Geographical Breakdown' for the Series 7E.

⁽¹⁾ OJ L 87, 31.3.2009, p. 164.

⁽²⁾ OJ L 393, 30.12.2006, p. 1.

- 32009 R 0250: Commission Regulation (EC) No 250/2009 of 11 March 2009 implementing Regulation (EC) No 295/2008 of the European Parliament and of the Council as regards the definitions of characteristics, the technical format for the transmission of data, the double reporting requirements for NACE Rev. 1.1 and NACE Rev. 2 and derogations to be granted for structural business statistics (OJ L 86, 31.3.2009, p. 1).
- 32009 R 0251: Commission Regulation (EC) No 251/2009 of 11 March 2009 implementing and amending Regulation (EC) No 295/2008 of the European Parliament and of the Council as regards the series of data to be produced for structural business statistics and the adaptations necessary after the revision of the statistical classification of products by activity (CPA) (OJ L 86, 31.3.2009, p. 170).
- 32010 R 0275: Commission Regulation (EU) No 275/2010 of 30 March 2010 implementing Regulation (EC) No 295/2008 of the European Parliament and of the Council, as regards the criteria for the evaluation of the quality of structural business statistics (OJ L 86, 1.4.2010, p. 1).
- 31998 R 1165: Council Regulation (EC) No 1165/98 of 19 May 1998 concerning short-term statistics (OJ L 162, 5.6.1998, p. 1), as amended by:
 - 32005 R 1158: Regulation (EC) No 1158/2005 of the European Parliament and of the Council of 6 July 2005 (OJ L 191, 22.7.2005, p. 1);
 - 32006 R 1503: Commission Regulation (EC) No 1503/2006 of 28 September 2006 (OJ L 281, 12.10.2006, p. 15), as amended by:
 - 32008 R 1178: Commission Regulation (EC) No 1178/2008 of 28 November 2008 (OJ L 319, 29.11.2008, p. 16);
 - 32009 R 0329: Commission Regulation (EC) No 329/2009 of 22 April 2009 (OJ L 103, 23.4.2009, p. 3);
 - 32012 R 0461: Commission Regulation (EU) No 461/2012 of 31 May 2012 (OJ L 142, 1.6.2012, p. 26).
- The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:
 - (a) Switzerland is exempted from providing data at the 4-digit level of the NACE Rev. 2;
 - (b) Switzerland is exempted from providing data for the variables 220 and 230 until 2015.
- 32001 R 0586: Commission Regulation (EC) No 586/2001 of 26 March 2001 on implementing Council Regulation (EC) No 1165/98 concerning short-term statistics as regards the definition of Main Industrial Groupings (MIGS) (OJ L 86, 27.3.2001, p. 11), as amended by:
 - 32007 R 0656: Commission Regulation (EC) No 656/2007 of 14 June 2007 (OJ L 155, 15.6.2007, p. 3).
- 32006 R 1503: Commission Regulation (EC) No 1503/2006 of 28 September 2006 implementing and amending Council Regulation (EC) No 1165/98 concerning short-term statistics as regards definitions of variables, list of variables and frequency of data compilation (OJ L 281, 12.10.2006, p. 15), as amended by:
 - 32008 R 1178: Commission Regulation (EC) No 1178/2008 of 28 November 2008 (OJ L 319, 29.11.2008, p. 16);
 - 32012 R 0461: Commission Regulation (EU) No 461/2012 of 31 May 2012 (OJ L 142, 1.6.2012, p. 26).
- 32008 R 0472: Commission Regulation (EC) No 472/2008 of 29 May 2008 implementing Council Regulation (EC) No 1165/98 concerning short-term statistics as regards the first base year to be applied for time series in NACE Revision 2 and, for time series prior to 2009 to be transmitted according to NACE Revision 2, the level of detail, the form, the first reference period, and the reference period (OJ L 140, 30.5.2008, p. 5).
- 32009 R 0596: Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny — Adaptation to the regulatory procedure with scrutiny — Part Four (OJ L 188, 18.7.2009, p. 14).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland is exempted from providing data for the variables 220 and 230 until 2015.

- 32008 R 0177: Regulation (EC) No 177/2008 of the European Parliament and of the Council of 20 February 2008 establishing a common framework for business registers for statistical purposes and repealing Council Regulation (EEC) No 2186/93 (OJ L 61, 5.3.2008, p. 6).
- 32009 R 0192: Commission Regulation (EC) No 192/2009 of 11 March 2009 implementing Regulation (EC) No 177/2008 of the European Parliament and of the Council establishing a common framework for business registers for statistical purposes, as regards the exchange of confidential data between the Commission (Eurostat) and Member States (OJ L 67, 12.3.2009, p. 14).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland is exempted from transmitting individual data of turnover for enterprises described in Annex A Turnover data until end 2013.

- 32010 R 1097: Commission Regulation (EU) No 1097/2010 of 26 November 2010 implementing Regulation (EC) No 177/2008 of the European Parliament and of the Council establishing a common framework for business registers for statistical purposes, as regards the exchange of confidential data between the Commission (Eurostat) and central banks (OJ L 312, 27.11.2010, p. 1).
- 32009 D 0252: Commission Decision 2009/252/EC of 11 March 2009 concerning derogations from certain provisions of Regulation (EC) No 177/2008 of the European Parliament and of the Council establishing a common framework for business registers for statistical purposes (OJ L 75, 21.3.2009, p. 11).

TRANSPORT AND TOURISM STATISTICS

- 32012 R 0070: Regulation (EU) No 70/2012 of the European Parliament and of the Council of 18 January 2012 on statistical returns in respect of the carriage of goods by road (OJ L 32, 3.2.2012, p. 1).
- 32001 R 2163: Commission Regulation (EC) No 2163/2001 of 7 November 2001 concerning the technical arrangements for data transmission for statistics on the carriage of goods by road (OJ L 291, 8.11.2001, p. 13), as amended by:
 - 32007 R 0973: Commission Regulation (EC) No 973/2007 of 20 August 2007 (OJ L 216, 21.8.2007, p. 10).
- 32003 R 0006: Commission Regulation (EC) No 6/2003 of 30 December 2002 concerning the dissemination of statistics on the carriage of goods by road (OJ L 1, 4.1.2003, p. 45), as amended by:
 - 32010 R 0202: Commission Regulation (EU) No 202/2010 of 10 March 2010 (OJ L 61, 11.3.2010, p. 24).
- 32004 R 0642: Commission Regulation (EC) No 642/2004 of 6 April 2004 on precision requirements for data collected in accordance with Council Regulation (EC) No 1172/98 on statistical returns in respect of the carriage of goods by road (OJ L 102, 7.4.2004, p. 26).
- 32007 R 0833: Commission Regulation (EC) No 833/2007 of 16 July 2007 ending the transitional period provided for in Council Regulation (EC) No 1172/98 on statistical returns in respect of the carriage of goods by road (OJ L 185, 17.7.2007, p. 9).
- 31993 D 0704: Council Decision 93/704/EC of 30 November 1993 on the creation of a Community database on road accidents (OJ L 329, 30.12.1993, p. 63).
- 32003 R 0091: Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics (OJ L 14, 21.1.2003, p. 1), as amended by:
 - 32003 R 1192: Commission Regulation (EC) No 1192/2003 of 3 July 2003 (OJ L 167, 4.7.2003, p. 13);
 - 32007 R 1304: Commission Regulation (EC) No 1304/2007 of 7 November 2007 (OJ L 290, 8.11.2007, p. 14).
- 32007 R 0332: Commission Regulation (EC) No 332/2007 of 27 March 2007 on the technical arrangements for the transmission of railway transport statistics (OJ L 88, 29.3.2007, p. 16).
- 32003 R 0437: Regulation (EC) No 437/2003 of the European Parliament and of the Council of 27 February 2003 on statistical returns in respect of the carriage of passengers, freight and mail by air (OJ L 66, 11.3.2003, p. 1), as amended by:
 - 32003 R 1358: Commission Regulation (EC) No 1358/2003 of 31 July 2003 (OJ L 194, 1.8.2003, p. 9);

- 32005 R 0546: Commission Regulation (EC) No 546/2005 of 8 April 2005 (OJ L 91, 9.4.2005, p. 5).
- 32003 R 1358: Commission Regulation (EC) No 1358/2003 of 31 July 2003 implementing Regulation (EC) No 437/2003 of the European Parliament and of the Council on statistical returns in respect of the carriage of passengers, freight and mail by air and amending Annexes I and II thereto (OJ L 194, 1.8.2003, p. 9), as amended by:
 - 32005 R 0546: Commission Regulation (EC) No 546/2005 of 8 April 2005 (OJ L 91, 9.4.2005, p. 5);
 - 32006 R 1792: Commission Regulation (EC) No 1792/2006 of 23 October 2006 (OJ L 362, 20.12.2006, p. 1);
 - 32007 R 0158: Commission Regulation (EC) No 158/2007 of 16 February 2007 (OJ L 49, 17.2.2007, p. 9).
- 32011 R 0692: Regulation (EU) No 692/2011 of the European Parliament and of the Council of 6 July 2011 concerning European statistics on tourism and repealing Council Directive 95/57/EC (OJ L 192, 22.7.2011, p. 17).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Switzerland shall transmit the data listed in Annex I, Sections 1 and 2, Heading A, concerning the type of accommodation NACE 55.2 from 2016 (reference year) onwards;
 - (b) Switzerland shall transmit the data listed in Annex I, Section 2, Heading B, concerning the type of accommodation NACE 55.2 for all reference periods within 4 months after the end of the reference year, from 2016 (reference year) onwards;
 - (c) Switzerland shall transmit the data listed in Annex I, Section 2, Heading B, concerning the type of accommodation NACE 55.3 for all reference periods within 4 months after the end of the reference year;
 - (d) Switzerland shall transmit the data listed in Annex II within 12 months after the end of the reference period, together with a report on the quality of the data.
- 32011 R 1051: Commission Implementing Regulation (EU) No 1051/2011 of 20 October 2011 implementing Regulation (EU) No 692/2011 of the European Parliament and of the Council concerning European statistics on tourism, as regards the structure of the quality reports and the transmission of the data (OJ L 276, 21.10.2011, p. 13).

FOREIGN TRADE STATISTICS

- 32006 R 1833: Commission Regulation (EC) No 1833/2006 of 13 December 2006 on the nomenclature of countries and territories for the external trade statistics of the Community and statistics of trade between Member States (OJ L 354, 14.12.2006, p. 19).
- 32009 R 0471: Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (OJ L 152, 16.6.2009, p. 23).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) All provisions related to the customs scheme of Centralised Clearance are not relevant;
- (b) Article 2 Definitions: The statistical territory shall comprise the customs territory excluding customs warehouses and duty-free warehouses;

Switzerland shall not be bound to compile statistics of trade between Switzerland and Liechtenstein;

- (c) Article 5(1) Statistical data: Statistical data referred to in Article 5(1)(e) shall be collected for the first time by 1 January 2016;

The provisions of Article 5(1)(f) and (k) shall not apply;

The classification referred to in Article 5(1)(h) shall be made at least down to the first six digits;

For Switzerland, the provisions of Article 5(1)(m)(ii) and (iii) shall not apply;

- (d) Article 6 Compilation of external trade statistics: The provisions of Article 6 shall not apply for statistical data for which Switzerland is exempted from collecting pursuant to Article 5 of the Regulation thereof;
- (e) Article 7 Data exchange: The provisions of Article 7(2) shall not apply.

- 32010 R 0092: Commission Regulation (EU) No 92/2010 of 2 February 2010 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards data exchange between customs authorities and national statistical authorities, compilation of statistics and quality assessment (OJ L 31, 3.2.2010, p. 4).
- 32010 R 0113: Commission Regulation (EU) No 113/2010 of 9 February 2010 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards trade coverage, definition of the data, compilation of statistics on trade by business characteristics and by invoicing currency, and specific goods or movements (OJ L 37, 10.2.2010, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) The following subparagraph shall be added to Article 4(2):

‘For Switzerland the ‘customs value’ shall be defined within the respective national rules.’;

- (b) The following subparagraph shall be added to Article 7(2):

‘For Switzerland ‘country of origin’ shall be taken to mean the country in which the goods originated within the meaning of the respective national rules of origin.’;

- (c) The reference to Regulation (EEC) No 2454/93 in Article 15(4) is not applicable.

STATISTICAL PRINCIPLES AND CONFIDENTIALITY

- 32008 D 0234: Decision 234/2008/EC of the European Parliament and of the Council of 11 March 2008 establishing the European Statistical Advisory Committee and repealing Council Decision 91/116/EEC (OJ L 73, 15.3.2008, p. 13).
- 32008 D 0235: Decision 235/2008/EC of the European Parliament and of the Council of 11 March 2008 establishing the European Statistical Governance Advisory Board (OJ L 73, 15.3.2008, p. 17).
- 32009 R 0223: Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).
- 32002 R 0831: Commission Regulation (EC) No 831/2002 of 17 May 2002 implementing Council Regulation (EC) No 322/97 on Community Statistics, concerning access to confidential data for scientific purposes (OJ L 133, 18.5.2002, p. 7), as amended by:
 - 32006 R 1104: Commission Regulation (EC) No 1104/2006 of 18 July 2006 (OJ L 197, 19.7.2006, p. 3);
 - 32007 R 1000: Commission Regulation (EC) No 1000/2007 of 29 August 2007 (OJ L 226, 30.8.2007, p. 7);
 - 32008 R 0606: Commission Regulation (EC) No 606/2008 of 26 June 2008 (OJ L 166, 27.6.2008, p. 16);
 - 32010 R 0520: Commission Regulation (EU) No 520/2010 of 16 June 2010 (OJ L 151, 17.6.2010, p. 14).
- 32004 D 0452: Commission Decision 2004/452/EC of 29 April 2004 laying down a list of bodies whose researchers may access confidential data for scientific purposes (OJ L 156, 30.4.2004, p. 1), as amended by:
 - 32005 D 0412: Commission Decision 2005/412/EC of 25 May 2005 (OJ L 140, 3.6.2005, p. 11);
 - 32005 D 0746: Commission Decision 2005/746/EC of 20 October 2005 (OJ L 280, 25.10.2005, p. 16);
 - 32006 D 0429: Commission Decision 2006/429/EC of 22 June 2006 (OJ L 172, 24.6.2006, p. 17);
 - 32006 D 0699: Commission Decision 2006/699/EC of 17 October 2006 (OJ L 287, 18.10.2006, p. 36);

- 32007 D 0081: Commission Decision 2007/81/EC of 2 February 2007 (OJ L 28, 3.2.2007, p. 23);
- 32007 D 0229: Commission Decision 2007/229/EC of 11 April 2007 (OJ L 99, 14.4.2007, p. 11);
- 32007 D 0439: Commission Decision 2007/439/EC of 25 June 2007 (OJ L 164, 26.6.2007, p. 30);
- 32007 D 0678: Commission Decision 2007/678/EC of 16 October 2007 (OJ L 280, 24.10.2007, p. 22);
- 32008 D 0052: Commission Decision 2008/52/EC of 20 December 2007 (OJ L 13, 16.1.2008, p. 29);
- 32008 D 0291: Commission Decision 2008/291/EC of 18 March 2008 (OJ L 98, 10.4.2008, p. 11);
- 32008 D 0595: Commission Decision 2008/595/EC of 25 June 2008 (OJ L 192, 19.7.2008, p. 60);
- 32008 D 0876: Commission Decision 2008/876/EC of 6 November 2008 (OJ L 310, 21.11.2008, p. 28);
- 32009 D 0411: Commission Decision 2009/411/EC of 25 May 2009 (OJ L 132, 29.5.2009, p. 16);
- 32010 D 0373: Commission Decision 2010/373/EU of 1 July 2010 (OJ L 169, 3.7.2010, p. 19);
- 32011 D 0511: Commission Decision 2011/511/EU of 17 August 2011 (OJ L 214, 19.8.2011, p. 19);
- 32012 D 0200: Commission Decision 2012/200/EU of 18 April 2012 (OJ L 108, 20.4.2012, p. 37).

Acts of which the Contracting Parties shall take note

The Contracting Parties shall take note of the following recommendations which shall have no binding force:

- 52005 PC 0217: Commission Recommendation COM(2005) 217 of 25 May 2005 on the independence, integrity and accountability of the national and Community statistical authorities (OJ C 172, 12.7.2005, p. 22).
- 32009 H 0498: Commission Recommendation 2009/498/EC of 23 June 2009 on reference metadata for the European Statistical System (OJ L 168, 30.6.2009, p. 50).

DEMOGRAPHIC AND SOCIAL STATISTICS

- 31998 R 0577: Council Regulation (EC) No 577/98 of 9 March 1998 on the organisation of a labour force sample survey in the Community (OJ L 77, 14.3.1998, p. 3), as amended by:
 - 32002 R 1991: Regulation (EC) No 1991/2002 of the European Parliament and of the Council of 8 October 2002 (OJ L 308, 9.11.2002, p. 1);
 - 32002 R 2104: Commission Regulation (EC) No 2104/2002 of 28 November 2002 (OJ L 324, 29.11.2002, p. 14);
 - 32003 R 2257: Regulation (EC) No 2257/2003 of the European Parliament and of the Council of 25 November 2003 (OJ L 336, 23.12.2003, p. 6);
 - 32007 R 1372: Regulation (EC) No 1372/2007 of the European Parliament and of the Council of 23 October 2007 (OJ L 315, 3.12.2007, p. 42).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

For Switzerland, irrespective of the provisions of Article 2(4), the sampling unit is an individual and the information concerning the other members of the household may include at least the characteristics listed pursuant to Article 4(1).

- 32000 R 1575: Commission Regulation (EC) No 1575/2000 of 19 July 2000 implementing Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community concerning the codification to be used for data transmission from 2001 onwards (OJ L 181, 20.7.2000, p. 16).
- 32000 R 1897: Commission Regulation (EC) No 1897/2000 of 7 September 2000 implementing Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community concerning the operational definition of unemployment (OJ L 228, 8.9.2000, p. 18).

- 32002 R 2104: Commission Regulation (EC) No 2104/2002 of 28 November 2002 adapting Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community and Commission Regulation (EC) No 1575/2000 implementing Council Regulation (EC) No 577/98 as far as the list of education and training variables and their codification to be used for data transmission from 2003 onwards are concerned (OJ L 324, 29.11.2002, p. 14).
- 32003 R 0246: Commission Regulation (EC) No 246/2003 of 10 February 2003 adopting the programme of ad hoc modules, covering the years 2004 to 2006, to the labour force sample survey provided by Council Regulation (EC) No 577/98 (OJ L 34, 11.2.2003, p. 3).
- 32005 R 0384: Commission Regulation (EC) No 384/2005 of 7 March 2005 adopting the programme of ad hoc modules, covering the years 2007 to 2009, for the labour force sample survey provided for by Council Regulation (EC) No 577/98 (OJ L 61, 8.3.2005, p. 23).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Independently of the provisions of Article 1, Switzerland is exempted from carrying out the 2007 ad hoc module.

- 32007 R 0102: Commission Regulation (EC) No 102/2007 of 2 February 2007 adopting the specifications of the 2008 ad hoc module on the labour market situation of migrants and their immediate descendants, as provided for by Council Regulation (EC) No 577/98 and amending Regulation (EC) No 430/2005 (OJ L 28, 3.2.2007, p. 3), as amended by:
 - 32008 R 0391: Commission Regulation (EC) No 391/2008 of 30 April 2008 (OJ L 117, 1.5.2008, p. 15).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Independently of the provisions of Article 2, Switzerland is exempted from providing the variables mentioned in columns 211/212, and for column 215 of the Annex.

- 32008 R 0207: Commission Regulation (EC) No 207/2008 of 5 March 2008 adopting the specifications of the 2009 ad hoc module on the entry of young people into the labour market provided for by Council Regulation (EC) No 577/98 (OJ L 62, 6.3.2008, p. 4).
- 32008 R 0365: Commission Regulation (EC) No 365/2008 of 23 April 2008 adopting the programme of ad hoc modules, covering the years 2010, 2011 and 2012, for the labour force sample survey provided for by Council Regulation (EC) No 577/98 (OJ L 112, 24.4.2008, p. 22).
- 32008 R 0377: Commission Regulation (EC) No 377/2008 of 25 April 2008 implementing Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community as regards the codification to be used for data transmission from 2009 onwards, the use of a sub-sample for the collection of data on structural variables and the definition of the reference quarters (OJ L 114, 26.4.2008, p. 57), as amended by:
 - 32009 R 1022: Commission Regulation (EC) No 1022/2009 of 29 October 2009 (OJ L 283, 30.10.2009, p. 3).
- 32009 R 0020: Commission Regulation (EC) No 20/2009 of 13 January 2009 adopting the specifications of the 2010 ad hoc module on reconciliation between work and family life provided for by Council Regulation (EC) No 577/98 (OJ L 9, 14.1.2009, p. 7).
- 32010 R 0220: Commission Regulation (EU) No 220/2010 of 16 March 2010 adopting the programme of ad-hoc modules, covering the years 2013 to 2015, for the labour force sample survey provided for by Council Regulation (EC) No 577/98 (OJ L 67, 17.3.2010, p. 1).
- 32010 R 0317: Commission Regulation (EU) No 317/2010 of 16 April 2010 adopting the specifications of the 2011 ad hoc module on employment of disabled people for the labour force sample survey provided for by Council Regulation (EC) No 577/98 (OJ L 97, 17.4.2010, p. 3).

- 32011 R 0249: Commission Regulation (EU) No 249/2011 of 14 March 2011 adopting the specifications of the 2012 ad hoc module on transition from work to retirement provided for by Council Regulation (EC) No 577/98 (OJ L 67, 15.3.2011, p. 18).
- 31999 R 0530: Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and labour costs (OJ L 63, 12.3.1999, p. 6), as amended by:
 - 31999 R 1726: Commission Regulation (EC) No 1726/1999 of 27 July 1999 (OJ L 203, 3.8.1999, p. 28), as amended by:
 - 32007 R 0973: Commission Regulation (EC) No 973/2007 of 20 August 2007 (OJ L 216, 21.8.2007, p. 10);
 - 32005 R 1737: Commission Regulation (EC) No 1737/2005 of 21 October 2005 (OJ L 279, 22.10.2005, p. 11);
 - 32006 R 1893: Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 (OJ L 393, 30.12.2006, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) For the statistics on the structure and distribution of earnings, Switzerland shall collect the data required in Article 6(2) of this Regulation for the first time in 2010;
- (b) For the statistics on the level and composition of labour costs, Switzerland shall collect the data required in Article 6(1) of this Regulation in 2008 for some variables only and for the first time in 2012 for all variables;
- (c) For the year 2008, Switzerland shall be allowed:
 - to provide the information required in Article 6(1)(a) based on enterprises (instead of local units), at national level, according to NACE Rev. 1.1 at section and section aggregates level and without breakdown by size of the enterprise;
 - to forward the results within a period of 24 months from the end of the reference year (instead of 18 months as stated in Article 9).
- 32000 R 1916: Commission Regulation (EC) No 1916/2000 of 8 September 2000 on implementing Council Regulation (EC) No 530/1999 concerning structural statistics on earnings and on labour costs as regards the definition and transmission of information on structure of earnings (OJ L 229, 9.9.2000, p. 3), as amended by:
 - 32005 R 1738: Commission Regulation (EC) No 1738/2005 of 21 October 2005 (OJ L 279, 22.10.2005, p. 32), as amended by:
 - 32009 R 1022: Commission Regulation (EC) No 1022/2009 of 29 October 2009 (OJ L 283, 30.10.2009, p. 3);
 - 32007 R 0973: Commission Regulation (EC) No 973/2007 of 20 August 2007 (OJ L 216, 21.8.2007, p. 10).
- 32006 R 0698: Commission Regulation (EC) No 698/2006 of 5 May 2006 implementing Council Regulation (EC) No 530/1999 as regards quality evaluation of structural statistics on labour costs and earnings (OJ L 121, 6.5.2006, p. 30), as amended by:
 - 32009 R 1022: Commission Regulation (EC) No 1022/2009 of 29 October 2009 (OJ L 283, 30.10.2009, p. 3).
- 32003 R 0450: Regulation (EC) No 450/2003 of the European Parliament and of the Council of 27 February 2003 concerning the labour cost index (OJ L 69, 13.3.2003, p. 1), as amended by:
 - 32006 R 1893: Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 (OJ L 393, 30.12.2006, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland shall compile and report the quarterly labour cost index from the first quarter of 2015 (reference period) onwards.

- 32003 R 1216: Commission Regulation (EC) No 1216/2003 of 7 July 2003 implementing Regulation (EC) No 450/2003 of the European Parliament and of the Council concerning the labour cost index (OJ L 169, 8.7.2003, p. 37), as amended by:
 - 32007 R 0973: Commission Regulation (EC) No 973/2007 of 20 August 2007 (OJ L 216, 21.8.2007, p. 10).
- 32003 R 1177: Regulation (EC) No 1177/2003 of the European Parliament and of the Council of 16 June 2003 concerning Community statistics on income and living conditions (EU-SILC) (OJ L 165, 3.7.2003, p. 1), as amended by:
 - 32005 R 1553: Regulation (EC) No 1553/2005 of the European Parliament and of the Council of 7 September 2005 (OJ L 255, 30.9.2005, p. 6).
- 32003 R 1980: Commission Regulation (EC) No 1980/2003 of 21 October 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards definitions and updated definitions (OJ L 298, 17.11.2003, p. 1), as amended by:
 - 32006 R 0676: Commission Regulation (EC) No 676/2006 of 2 May 2006 (OJ L 118, 3.5.2006, p. 3).
- 32003 R 1981: Commission Regulation (EC) No 1981/2003 of 21 October 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the fieldwork aspects and the imputation procedures (OJ L 298, 17.11.2003, p. 23).
- 32003 R 1982: Commission Regulation (EC) No 1982/2003 of 21 October 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the sampling and tracing rules (OJ L 298, 17.11.2003, p. 29).
- 32003 R 1983: Commission Regulation (EC) No 1983/2003 of 7 November 2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the list of target primary variables (OJ L 298, 17.11.2003, p. 34), as amended by:
 - 32007 R 0973: Commission Regulation (EC) No 973/2007 of 20 August 2007 (OJ L 216, 21.8.2007, p. 10).
- 32004 R 0028: Commission Regulation (EC) No 28/2004 of 5 January 2004 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the detailed content of intermediate and final quality reports (OJ L 5, 9.1.2004, p. 42).
- 32006 R 0315: Commission Regulation (EC) No 315/2006 of 22 February 2006 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the list of target secondary variables relating to housing conditions (OJ L 52, 23.2.2006, p. 16).
- 32007 R 0215: Commission Regulation (EC) No 215/2007 of 28 February 2007 on implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the list of target secondary variables relating to over-indebtedness and financial exclusion (OJ L 62, 1.3.2007, p. 8).
- 32008 R 0362: Council Regulation (EC) No 362/2008 of 14 April 2008 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the 2009 list of target secondary variables on material deprivation (OJ L 112, 24.4.2008, p. 1).
- 32009 R 0646: Commission Regulation (EC) No 646/2009 of 23 July 2009 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the 2010 list of target secondary variables on intra-household sharing of resources (OJ L 192, 24.7.2009, p. 3).

- 32010 R 0481: Commission Regulation (EU) No 481/2010 of 1 June 2010 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the 2011 list of target secondary variables on intergenerational transmission of disadvantages (OJ L 135, 2.6.2010, p. 38).
- 32010 R 1157: Commission Regulation (EU) No 1157/2010 of 9 December 2010 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC), as regards the 2012 list of target secondary variables on housing conditions (OJ L 326, 10.12.2010, p. 3).
- 32012 R 0062: Commission Regulation (EU) No 62/2012 of 24 January 2012 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the 2013 list of target secondary variables on well-being (OJ L 22, 25.1.2012, p. 9).
- 32007 R 0862: Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers (OJ L 199, 31.7.2007, p. 23).
- 32010 R 0216: Commission Regulation (EU) No 216/2010 of 15 March 2010 implementing Regulation (EC) No 862/2007 of the European Parliament and of the Council on Community statistics on migration and international protection, as regards the definitions of categories of the reasons for the residence permits (OJ L 66, 16.3.2010, p. 1).
- 32010 R 0351: Commission Regulation (EU) No 351/2010 of 23 April 2010 implementing Regulation (EC) No 862/2007 of the European Parliament and of the Council on Community statistics on migration and international protection as regards the definitions of the categories of the groups of country of birth, groups of country of previous usual residence, groups of country of next usual residence and groups of citizenship (OJ L 104, 24.4.2010, p. 37).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

For data items 1.2 (Groups of country of birth), 1.3 (Groups of country of previous usual residence), and 1.4 (Groups of country of next usual residence) in the Annex the first reference year applicable to Switzerland is 2011.

- 32008 R 0453: Regulation (EC) No 453/2008 of the European Parliament and of the Council of 23 April 2008 on quarterly statistics on Community job vacancies (OJ L 145, 4.6.2008, p. 234).
- 32008 R 1062: Commission Regulation (EC) No 1062/2008 of 28 October 2008 implementing Regulation (EC) No 453/2008 of the European Parliament and of the Council on quarterly statistics on Community job vacancies, as regards seasonal adjustment procedures and quality reports (OJ L 285, 29.10.2008, p. 3).
- 32009 R 0019: Commission Regulation (EC) No 19/2009 of 13 January 2009 implementing Regulation (EC) No 453/2008 of the European Parliament and of the Council on quarterly statistics on Community job vacancies, as regards the definition of a job vacancy, the reference dates for data collection, data transmission specifications and feasibility studies (OJ L 9, 14.1.2009, p. 3).

Acts of which the Contracting Parties shall take note

The Contracting Parties shall take note of the following recommendation which shall have no binding force:

- 32009 H 0824: Commission Recommendation 2009/824/EC of 29 October 2009 on the use of the International Standard Classification of Occupations (ISCO-08) (OJ L 292, 10.11.2009, p. 31).

ECONOMIC STATISTICS

- 31995 R 2494: Council Regulation (EC) No 2494/95 of 23 October 1995 concerning harmonised indices of consumer prices (OJ L 257, 27.10.1995, p. 1).

For Switzerland the Regulation applies to the harmonisation of consumer price indices for international comparisons.

It is not relevant as regards the explicit purposes of calculating harmonised CPI's in the context of the Economic and Monetary Union.

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Article 2(c), as well as references to MUICP in Article 8(1) and Article 11, are not applicable;
 - (b) Article 5(1)(a) is not applicable;
 - (c) Article 5(2) is not applicable;
 - (d) The consultation of the EMI as specified in Article 5(3) is not applicable.
- 31996 R 1749: Commission Regulation (EC) No 1749/96 of 9 September 1996 on initial implementing measures for Council Regulation (EC) No 2494/95 concerning harmonised indices of consumer prices (OJ L 229, 10.9.1996, p. 3), as amended by:
- 31998 R 1687: Council Regulation (EC) No 1687/98 of 20 July 1998 (OJ L 214, 31.7.1998, p. 12);
- 31998 R 1688: Council Regulation (EC) No 1688/98 of 20 July 1998 (OJ L 214, 31.7.1998, p. 23);
- 32007 R 1334: Commission Regulation (EC) No 1334/2007 of 14 November 2007 (OJ L 296, 15.11.2007, p. 22).
- 31996 R 2214: Commission Regulation (EC) No 2214/96 of 20 November 1996 concerning harmonised indices of consumer prices: transmission and dissemination of sub-indices of the HICP (OJ L 296, 21.11.1996, p. 8), as amended by:
- 31999 R 1617: Commission Regulation (EC) No 1617/1999 of 23 July 1999 (OJ L 192, 24.7.1999, p. 9);
- 31999 R 1749: Commission Regulation (EC) No 1749/1999 of 23 July 1999 (OJ L 214, 13.8.1999, p. 1);
- 32001 R 1920: Commission Regulation (EC) No 1920/2001 of 28 September 2001 (OJ L 261, 29.9.2001, p. 46);
- 32005 R 1708: Commission Regulation (EC) No 1708/2005 of 19 October 2005 (OJ L 274, 20.10.2005, p. 9).
- 31998 R 2646: Commission Regulation (EC) No 2646/98 of 9 December 1998 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of tariffs in the Harmonised Index of Consumer Prices (OJ L 335, 10.12.1998, p. 30).
- 31999 R 1617: Commission Regulation (EC) No 1617/1999 of 23 July 1999 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of insurance in the Harmonised Index of Consumer Prices and modifying Commission Regulation (EC) No 2214/96 (OJ L 192, 24.7.1999, p. 9).
- 31999 R 2166: Council Regulation (EC) No 2166/1999 of 8 October 1999 laying down detailed rules for the implementation of Regulation (EC) No 2494/95 as regards minimum standards for the treatment of products in the health, education and social protection sectors in the Harmonised Index of Consumer Prices (OJ L 266, 14.10.1999, p. 1).
- 32000 R 2601: Commission Regulation (EC) No 2601/2000 of 17 November 2000 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards the timing of entering purchaser prices into the Harmonised Index of Consumer Prices (OJ L 300, 29.11.2000, p. 14).
- 32000 R 2602: Commission Regulation (EC) No 2602/2000 of 17 November 2000 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of price reductions in the Harmonised Index of Consumer Prices (OJ L 300, 29.11.2000, p. 16), as amended by:
- 32001 R 1921: Commission Regulation (EC) No 1921/2001 of 28 September 2001 (OJ L 261, 29.9.2001, p. 49).

- 32001 R 1920: Commission Regulation (EC) No 1920/2001 of 28 September 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of service charges proportional to transaction values in the harmonised index of consumer prices and amending Regulation (EC) No 2214/96 (OJ L 261, 29.9.2001, p. 46).
- 32001 R 1921: Commission Regulation (EC) No 1921/2001 of 28 September 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for revisions of the harmonised index of consumer prices and amending Regulation (EC) No 2602/2000 (OJ L 261, 29.9.2001, p. 49).
- 32005 R 1708: Commission Regulation (EC) No 1708/2005 of 19 October 2005 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards the common index reference period for the harmonised index of consumer prices, and amending Regulation (EC) No 2214/96 (OJ L 274, 20.10.2005, p. 9).
- 32006 R 0701: Council Regulation (EC) No 701/2006 of 25 April 2006 laying down detailed rules for the implementation of Regulation (EC) No 2494/95 as regards the temporal coverage of price collection in the harmonised index of consumer prices (OJ L 122, 9.5.2006, p. 3).
- 32009 R 0330: Commission Regulation (EC) No 330/2009 of 22 April 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the treatment of seasonal products in the Harmonised Indices of Consumer Prices (HICP) (OJ L 103, 23.4.2009, p. 6).
- 32010 R 1114: Commission Regulation (EU) No 1114/2010 of 1 December 2010 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 as regards minimum standards for the quality of HICP weightings and repealing Commission Regulation (EC) No 2454/97 (OJ L 316, 2.12.2010, p. 4).
- 32007 R 1445: Regulation (EC) No 1445/2007 of the European Parliament and of the Council of 11 December 2007 establishing common rules for the provision of basic information on Purchasing Power Parities and for their calculation and dissemination (OJ L 336, 20.12.2007, p. 1).
- 32011 R 0193: Commission Regulation (EU) No 193/2011 of 28 February 2011 implementing Regulation (EC) No 1445/2007 of the European Parliament and of the Council as regards the system of quality control used for Purchasing Power Parities (OJ L 56, 1.3.2011, p. 1).
- 31996 R 2223: Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (OJ L 310, 30.11.1996, p. 1), as amended by:
 - 31998 R 0448: Council Regulation (EC) No 448/98 of 16 February 1998 (OJ L 58, 27.2.1998, p. 1);
 - 32000 R 1500: Commission Regulation (EC) No 1500/2000 of 10 July 2000 (OJ L 172, 12.7.2000, p. 3);
 - 32000 R 2516: Regulation (EC) No 2516/2000 of the European Parliament and of the Council of 7 November 2000 (OJ L 290, 17.11.2000, p. 1);
 - 32001 R 0995: Commission Regulation (EC) No 995/2001 of 22 May 2001 (OJ L 139, 23.5.2001, p. 3);
 - 32001 R 2558: Regulation (EC) No 2558/2001 of the European Parliament and of the Council of 3 December 2001 (OJ L 344, 28.12.2001, p. 1);
 - 32002 R 0113: Commission Regulation (EC) No 113/2002 of 23 January 2002 (OJ L 21, 24.1.2002, p. 3);
 - 32002 R 1889: Commission Regulation (EC) No 1889/2002 of 23 October 2002 (OJ L 286, 24.10.2002, p. 1);
 - 32003 R 1267: Regulation (EC) No 1267/2003 of the European Parliament and of the Council of 16 June 2003 (OJ L 180, 18.7.2003, p. 1);
 - 32007 R 1392: Regulation (EC) No 1392/2007 of the European Parliament and of the Council of 13 November 2007 (OJ L 324, 10.12.2007, p. 1);

- 32009 R 0400: Regulation (EC) No 400/2009 of the European Parliament and of the Council of 23 April 2009 (OJ L 126, 21.5.2009, p. 11);
- 32010 R 0715: Commission Regulation (EU) No 715/2010 of 10 August 2010 (OJ L 210, 11.8.2010, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Switzerland shall be permitted to compile data by institutional units when the provisions of the Regulation refer to industry;
- (b) Switzerland shall not be bound by the regional breakdown of the data as required by the Regulation;
- (c) Switzerland shall not be bound by the EU/third countries breakdown of exports and imports of services as required by the Regulation;
- (d) In Annex B, under 'Derogations by Member State', the following shall be added after point 27. UNITED KINGDOM:

'28. SWITZERLAND

28.1. Derogations for tables

Table No	Variable/item	Derogation	Reference period covered by the derogation	First transmission
1	All	Exempted	1980-1989	1998
	Employment	No distinction employed/self-employed	All	
	Compensation of employees	Breakdown of D.1 only for yearly data at T + 9	All	
3	All	Exempted	1980-1989	1998
		Breakdown A21	1990-1997	
		Breakdown A64 with some aggregation	1998 onwards	
	Employment	No distinction employed/self-employed	All	
5	COICOP	Exempted	1980-1989	1998
6-7	All	Exempted	1995-1999	2005
		Transmission at T + 11 (household sector) and T + 21 (other sectors)	2000-2014	
		Transmission at T + 9 (household sector) and T + 11 (other sectors)	2015 onwards	2016
	F.51, F.7	No breakdown	All	
8	All	Transmission at T + 18	1990-2014	
		Transmission at T + 9	2015 onwards	2016
10	All	Exempted	All	

Table No	Variable/item	Derogation	Reference period covered by the derogation	First transmission
11	COFOG	Exempted	1995-2004	2008
12-13, 15-26	All	Exempted	All	

— 31997 D 0178: Commission Decision 97/178/EC, Euratom of 10 February 1997 on the definition of a methodology for the transition between the European System of National and Regional Accounts in the Community (ESA 95) and the European System of Integrated Economic Accounts (ESA second edition) (OJ L 75, 15.3.1997, p. 44).

— 31998 D 0715: Commission Decision 98/715/EC of 30 November 1998 clarifying Annex A to Council Regulation (EC) No 2223/96 on the European system of national and regional accounts in the Community as concerns the principles for measuring prices and volumes (OJ L 340, 16.12.1998, p. 33).

The provisions of the Decision shall, for the purposes of this Agreement, be read with the following adaptation:

Article 3 (classification of methods by product) shall not apply to Switzerland.

— 32002 D 0990: Commission Decision 2002/990/EC of 17 December 2002 further clarifying Annex A to Council Regulation (EC) No 2223/96 as concerns the principles for measuring prices and volumes in national accounts (OJ L 347, 20.12.2002, p. 42).

The provisions of the Decision shall, for the purposes of this Agreement, be read with the following adaptation:

Article 2 (Classification of methods) shall not apply to Switzerland.

— 32002 R 1889: Commission Regulation (EC) No 1889/2002 of 23 October 2002 on the implementation of Council Regulation (EC) No 448/98 completing and amending Regulation (EC) No 2223/96 with respect to the allocation of financial intermediation services indirectly measured (FISIM) within the European System of national and regional Accounts (ESA) (OJ L 286, 24.10.2002, p. 11).

— 32003 R 1287: Council Regulation (EC, Euratom) No 1287/2003 of 15 July 2003 on the harmonisation of gross national income at market prices (GNI Regulation) (OJ L 181, 19.7.2003, p. 1).

— 32005 R 0116: Commission Regulation (EC, Euratom) No 116/2005 of 26 January 2005 on the treatment of repayments of VAT to non-taxable persons and to taxable persons for their exempt activities, for the purposes of Council Regulation (EC, Euratom) No 1287/2003 on the harmonisation of gross national income at market prices (OJ L 24, 27.1.2005, p. 6).

— 32005 R 1722: Commission Regulation (EC) No 1722/2005 of 20 October 2005 on the principles for estimating dwelling services for the purpose of Council Regulation (EC, Euratom) No 1287/2003 on the harmonisation of gross national income at market prices (OJ L 276, 21.10.2005, p. 5).

— 32000 R 0264: Commission Regulation (EC) No 264/2000 of 3 February 2000 on the implementation of Council Regulation (EC) No 2223/96 with respect to short-term public finance statistics (OJ L 29, 4.2.2000, p. 4).

The provisions in tables 25.1 and 25.2 of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Switzerland is exempted from the breakdown of the social benefits D.60 in D.62 and D.631M;

(b) Switzerland is exempted from the breakdown of the social contributions D.61 in D.611 and D.612;

(c) Switzerland is exempted from the breakdown of the capital transfers D.9 in D.91 and D.9N;

(d) The first data shall be transferred in the year 2012 + t12 (end of December) for the 3rd quarter of 2012 and retroactively as from the 1st quarter of 1999.

- 32002 R 1221: Regulation (EC) No 1221/2002 of the European Parliament and of the Council of 10 June 2002 on quarterly non-financial accounts for general government (OJ L 179, 9.7.2002, p. 1).

The provisions in tables 25.1 and 25.2 of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Switzerland is exempted from the breakdown of the social benefits D.60 in D.62 and D.631M;
 - (b) Switzerland is exempted from the breakdown of the social contributions D.61 in D.611 and D.612;
 - (c) Switzerland is exempted from the breakdown of the capital transfers D.9 in D.91 and D.9N;
 - (d) The first data shall be transferred in the year 2012 + t12 (end of December) for the 3rd quarter of 2012 and retroactively as from the 1st quarter of 1999.
- 32005 R 0184: Regulation (EC) No 184/2005 of the European Parliament and of the Council of 12 January 2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment (OJ L 35, 8.2.2005, p. 23), as amended by:

- 32006 R 0602: Commission Regulation (EC) No 602/2006 of 18 April 2006 (OJ L 106, 19.4.2006, p. 10);

- 32009 R 0707: Commission Regulation (EC) No 707/2009 of 5 August 2009 (OJ L 204, 6.8.2009, p. 3).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Switzerland is exempted from providing data for:
 - Table 1 (euro Indicators): Complete table;
 - Table 2 (quarterly balance of payments): Portfolio investment breakdown by country;
 - Table 3 (international trade in services): Services altogether geographical breakdown Level 3 and Government services sub-divisions;
 - Table 4 (direct investment flows T + 21) and Table 5 (direct investment stocks T + 21): NOGA branch of economic activity 3-digit code level;
 - (b) Switzerland is exempted from transmitting data until end 2014 for:
 - Table 2 (quarterly balance of payments): Balance of payments other than portfolio investment;
 - Table 3 (international trade in services): Services altogether geographical breakdown Level 2;
 - Table 4 (direct investment flows T + 9): Direct investment abroad total: geographical Breakdown level 3 and Direct investment in the reporting economy total: geographical Breakdown level 3;
 - Table 4 (direct investment flows T + 21): Direct investment abroad total: geographical Breakdown level 3 and Direct investment in the reporting economy total: geographical Breakdown level 3 and NOGA branch of economic activity, 2-digit code level;
 - Table 5 (direct investment stocks T + 21): Direct investment abroad total assets: Geographical breakdown level 3 and Direct investment in the reporting economy, total liabilities Geographical breakdown level 3 and NOGA branch of economic activity, 2-digit code level.
- 32006 R 0601: Commission Regulation (EC) No 601/2006 of 18 April 2006 implementing Regulation (EC) No 184/2005 of the European Parliament and of the Council as regards the format and the procedure for the transmission of data (OJ L 106, 19.4.2006, p. 7).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland is exempted from implementing the procedures regarding the format and procedures for the transmission of data until end 2014.

- 32008 R 1055: Commission Regulation (EC) No 1055/2008 of 27 October 2008 implementing Regulation (EC) No 184/2005 of the European Parliament and of the Council, as regards quality criteria and quality reporting for balance of payments statistics (OJ L 283, 28.10.2008, p. 3), as amended by:
- 32010 R 1227: Commission Regulation (EU) No 1227/2010 of 20 December 2010 (OJ L 336, 21.12.2010, p. 15).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland is exempted from supplying a quality report until end 2014.

NOMENCLATURES

- 31990 R 3037: Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1), as amended by:
- 31993 R 0761: Commission Regulation (EEC) No 761/93 of 24 March 1993 (OJ L 83, 3.4.1993, p. 1);
- 32002 R 0029: Commission Regulation (EC) No 29/2002 of 19 December 2001 (OJ L 6, 10.1.2002, p. 3);
- 32006 R 1893: Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 (OJ L 393, 30.12.2006, p. 1).
- 31993 R 0696: Council Regulation (EEC) No 696/93 of 15 March 1993 on the statistical units for the observation and analysis of the production system in the Community (OJ L 76, 30.3.1993, p. 1), as amended by:
- 1 94 N: Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21 as adjusted by OJ L 1, 1.1.1995, p. 1).
- 32003 R 1059: Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1), as amended by:
- 32008 R 0011: Commission Regulation (EC) No 11/2008 of 8 January 2008 (OJ L 5, 9.1.2008, p. 13);
- 32008 R 0176: Regulation (EC) No 176/2008 of the European Parliament and of the Council of 20 February 2008 (OJ L 61, 5.3.2008, p. 1);
- 32011 R 0031: Commission Regulation (EU) No 31/2011 of 17 January 2011 (OJ L 13, 18.1.2011, p. 3).
- 32008 R 0451: Regulation (EC) No 451/2008 of the European Parliament and of the Council of 23 April 2008 establishing a new statistical classification of products by activity (CPA) and repealing Council Regulation (EEC) No 3696/93 (OJ L 145, 4.6.2008, p. 65).

AGRICULTURAL STATISTICS

- 31996 L 0016: Council Directive 96/16/EC of 19 March 1996 on statistical surveys of milk and milk products (OJ L 78, 28.3.1996, p. 27), as amended by:
- 32003 L 0107: Directive 2003/107/EC of the European Parliament and of the Council of 5 December 2003 (OJ L 7, 13.1.2004, p. 40).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland shall not be bound by the regional breakdown of the data as required by the Directive.

- 31997 D 0080: Commission Decision 97/80/EC of 18 December 1996 laying down provisions for the implementation of Council Directive 96/16/EC on statistical surveys of milk and milk products (OJ L 24, 25.1.1997, p. 26), as amended by:
 - 31998 D 0582: Council Decision 98/582/EC of 6 October 1998 (OJ L 281, 17.10.1998, p. 36);
 - 32005 D 0288: Commission Decision 2005/288/EC of 18 March 2005 (OJ L 88, 7.4.2005, p. 10);
 - 32011 D 0142: Commission Decision 2011/142/EU of 3 March 2011 (OJ L 59, 4.3.2011, p. 66).

The provisions of the Decision shall, for the purposes of this Agreement, be read with the following adaptation:

Switzerland shall not be bound by the regional breakdown as required in Annex I, table 1: Annual production of cow milk.

- 32004 R 0138: Regulation (EC) No 138/2004 of the European Parliament and of the Council of 5 December 2003 on the economic accounts for agriculture in the Community (OJ L 33, 5.2.2004, p. 1), as amended by:
 - 32005 R 0306: Commission Regulation (EC) No 306/2005 of 24 February 2005 (OJ L 52, 25.2.2005, p. 9);
 - 32006 R 0909: Commission Regulation (EC) No 909/2006 of 20 June 2006 (OJ L 168, 21.6.2006, p. 14);
 - 32008 R 0212: Commission Regulation (EC) No 212/2008 of 7 March 2008 (OJ L 65, 8.3.2008, p. 5).
- 32008 R 1166: Regulation (EC) No 1166/2008 of the European Parliament and of the Council of 19 November 2008 on farm structure surveys and the survey on agricultural production methods and repealing Council Regulation (EEC) No 571/88 (OJ L 321, 1.12.2008, p. 14).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

For Switzerland, entry VII of Annex III to the Regulation shall not apply.

- 32008 R 1242: Commission Regulation (EC) No 1242/2008 of 8 December 2008 establishing a Community typology for agricultural holdings (OJ L 335, 13.12.2008, p. 3), as amended by:
 - 32009 R 0867: Commission Regulation (EC) No 867/2009 of 21 September 2009 (OJ L 248, 22.9.2009, p. 17).
- 32009 R 1200: Commission Regulation (EC) No 1200/2009 of 30 November 2009 implementing Regulation (EC) No 1166/2008 of the European Parliament and of the Council on farm structure surveys and the survey on agricultural production methods, as regards livestock unit coefficients and definitions of the characteristics (OJ L 329, 15.12.2009, p. 1).
- 32008 R 1165: Regulation (EC) No 1165/2008 of the European Parliament and of the Council of 19 November 2008 concerning livestock and meat statistics and repealing Council Directives 93/23/EEC, 93/24/EEC and 93/25/EEC (OJ L 321, 1.12.2008, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Switzerland shall not be bound by the following detailed categories of livestock statistics as required by Annex II to the Regulation:
 - Switzerland is exempted from the statistics of animals for slaughter as required by Annex II, categories of livestock statistics, bovine animals aged over 1 year but under 2 years, female (heifers; animals that have not yet calved);
 - Switzerland is exempted from the statistics of other as required by Annex II, categories of livestock statistics, bovine animals aged over 1 year but under 2 years, female (heifers; animals that have not yet calved);
 - Switzerland is exempted from the statistics of animals for slaughter as required by Annex II, categories of livestock statistics, bovine animals of 2 years and over, female, heifers;

- Switzerland is exempted from the statistics of other as required by Annex II, categories of livestock statistics, bovine animals of 2 years and over, female, heifers;
- Switzerland is exempted from the statistics of pigs with a live weight of 50 kg or more but less than 80 kg as required by Annex II, categories of livestock statistics, fattening pigs, including cull boars and cull sows;
- Switzerland is exempted from the statistics of pigs with a live weight of 80 kg or more but less than 110 kg as required by Annex II, categories of livestock statistics, fattening pigs, including cull boars and cull sows;
- Switzerland is exempted from the statistics of pigs with a live weight of 110 kg or more as required by Annex II, categories of livestock statistics, fattening pigs, including cull boars and cull sows;
- Switzerland is exempted from the statistics of sows covered for the first time as required by Annex II, categories of livestock statistics, breeding pigs with a live weight of 50 kg and over, covered sows;
- Switzerland is exempted from the statistics of gilts not yet covered as required by Annex II, categories of livestock statistics, breeding pigs with a live weight of 50 kg and over, other sows;
- (b) Switzerland is exempted from the statistics of young cattle as required by Annex IV, categories of slaughtering statistics, bovine animals;
- (c) Switzerland is exempted from the statistics of lambs and others as required by Annex IV, categories of slaughtering statistics, sheep;
- (d) Switzerland is exempted from the statistics of goats as required by Annex IV, categories of slaughtering statistics;
- (e) Switzerland is exempted from the statistics of ducks and others as required by Annex IV, categories of slaughtering statistics, poultry.
- 32009 R 0543: Regulation (EC) No 543/2009 of the European Parliament and of the Council of 18 June 2009 concerning crop statistics and repealing Council Regulations (EEC) No 837/90 and (EEC) No 959/93 (OJ L 167, 29.6.2009, p. 1).

ENERGY STATISTICS

- 31990 L 0377: Council Directive 90/377/EEC of 29 June 1990 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (OJ L 185, 17.7.1990, p. 16).

ENVIRONMENTAL STATISTICS

- 32006 R 1893: Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 (OJ L 393, 30.12.2006, p. 1).
 - 32007 R 0973: Commission Regulation (EC) No 973/2007 of 20 August 2007 (OJ L 216, 21.8.2007, p. 10).
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NOTICE TO READERS

Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the *Official Journal of the European Union*

In accordance with Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the *Official Journal of the European Union* (OJ L 69, 13.3.2013, p. 1), as of 1 July 2013, only the electronic edition of the Official Journal shall be considered authentic and shall have legal effect.

Where it is not possible to publish the electronic edition of the Official Journal due to unforeseen and exceptional circumstances, the printed edition shall be authentic and shall have legal effect in accordance with the terms and conditions set out in Article 3 of Regulation (EU) No 216/2013.

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