

Official Journal

of the European Union

L 298



English edition

Legislation

Volume 56

8 November 2013

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) No 1106/2013

of 5 November 2013

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain stainless steel wires originating in India

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 ('the basic Regulation')⁽¹⁾, and in particular Article 9 thereof,

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

Whereas:

A. PROCEDURE

1. Provisional Measures

- (1) On 3 May 2013, the European Commission ('the Commission') imposed, by means of Regulation (EU) No 418/2013⁽²⁾ ('the provisional Regulation'), a provisional anti-dumping duty on imports into the European Union ('the Union') of certain stainless steel wires originating in India ('the country concerned').
- (2) The investigation was initiated following a complaint lodged on 28 June 2012 by the European Confederation of Iron and Steel Industries (Eurofer) ('the complainant') on behalf of Union producers representing more than 50 % of the total Union production of certain stainless steel wires.

- (3) In the parallel anti-subsidy investigation, the Commission imposed a provisional countervailing duty on imports of certain stainless steel wires originating in the country concerned by means of Regulation (EU) No 419/2013⁽³⁾ and a definitive countervailing duty by means of Regulation (EU) No 861/2013⁽⁴⁾.

2. Parties concerned by the investigation

- (4) At the provisional stage of the investigation, sampling was applied for the Indian exporting producers and the Union producers. At the provisional stage, sampling was envisaged also regarding unrelated importers. However, as two out of three importers chosen for the sample did not submit questionnaire replies, sampling for importers could not be applied. Therefore, all available information pertaining to all cooperating importers was used to reach definitive findings; in particular as far the Union interest is concerned.
- (5) One exporting producer alleged that since no sales from non-complainants were used for the determination of the injury suffered by the Union industry, the selected sample of Union producers could not be considered representative. That claim was rejected because the sample was selected on the basis of the replies received from all cooperating Union producers regardless their support for the complaint at the stage of determination of standing, and was made on the basis of production volumes.
- (6) One exporting producer, related to a Union producer, opposed the complaint, and requested individual examination, because it was not included in the sample of exporting producers, as a result of its low export volumes. The Union producer itself was also not included in the Union industry sample because of its low production volumes. The individual examination was granted by the Commission, but the exporting producer withdrew its request.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.⁽²⁾ OJ L 126, 8.5.2013, p. 1.⁽³⁾ OJ L 126, 8.5.2013, p. 19.⁽⁴⁾ OJ L 240, 7.9.2013, p. 1.

- (7) Seven Indian exporting producers outside the sample requested individual examination. Two of them replied to the questionnaires and five did not. Out of the two which replied to the questionnaire, one withdrew its individual examination request. As a result, the Commission has examined the request of one Indian exporting producer outside the sample, namely:

— KEI Industries Limited, New Delhi (KEI).

- (8) At the provisional stage, none of the initially sampled exporting producers was found to have submitted sufficiently reliable information. Therefore Article 18 of the basic Regulation was applied. The Commission decided to extend the sample with three companies, based on their export volumes and their willingness to cooperate, as expressed following the initiation of the proceeding. As a result, the Commission has examined the questionnaire replies and carried out verification visits at the premises of the following Indian exporting producers:

— Garg Inox, Bahadurgarh, Haryana

— Macro Bars and Wires, Mumbai, Maharashtra

— Nevatia Steel & Alloys, Mumbai, Maharashtra

- (9) Apart from the above, recitals 4 to 7 and 14 of the provisional Regulation are confirmed.

3. Investigation period and the period considered

- (10) As set out in recital 20 of the provisional Regulation, the investigation of dumping and injury covered the period from 1 April 2011 to 31 March 2012 ('investigation period' or 'IP'). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2009 to 31 March 2012 ('period considered').

4. Subsequent procedure

- (11) Following the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures ('provisional disclosure'), several interested parties, namely the 3 sampled exporting producers, the one exporting producer which withdrew its individual examination request, the complainant, and 11 users submitted comments. The parties who so requested were granted a hearing. The Commission continued to seek information which it deemed necessary for the definitive findings. All comments received were considered and taken into account, where appropriate.

- (12) The Commission informed the interested parties of the essential facts and considerations on the basis of which it intended to recommend the imposition of definitive anti-dumping duty on imports of certain stainless steel wires originating in the country concerned and the definitive collection of the amounts secured by way of the provisional duty ('final disclosure'). The parties were also granted a period within which they could comment on the final disclosure. All comments received were considered and taken into account, where appropriate.

- (13) Following the comments received on the final disclosure, the Commission informed the interested parties of changes in the findings concerning the level of dumping of certain exporting producers. The parties were again granted a period within which they could comment on the additional disclosure. All comments received were considered and taken into account, where appropriate. One interested party, the complainant, criticised the fact that the findings concerning the level of dumping of certain exporting producers were altered on the basis of new data and comments received after the provisional disclosure and at the definitive stage of the investigation. It also alleged that its procedural rights were infringed.

- (14) The Commission, however, considered that it was to take into account the submissions received from the interested parties and, if necessary, alter the findings when the comments were justified. In none of these instances, new unverified data was used for the dumping determination. Moreover, the procedural rights of all interested parties were respected as they were duly and timely informed and given the same deadlines within which to submit comments.

B. PRODUCT CONCERNED AND LIKE PRODUCT

- (15) As stated in recital 21 of the provisional Regulation, the product concerned is defined as stainless steel wires containing by weight:

— 2,5 % or more of nickel, other than wire containing by weight 28 % or more but not more than 31 % of nickel and 20 % or more but not more than 22 % of chromium,

— less than 2,5 % of nickel, other than wire containing by weight 13 % or more but not more than 25 % of chromium and 3,5 % or more but not more than 6 % of aluminium,

currently falling within CN codes 7223 00 19 and 7223 00 99, originating in the country concerned.

- (16) Some users expressed concerns about the apparent lack of distinction between the various types of the product concerned and the like product because a wide product mix exists among all the product types. There was a particular concern as to how a fair comparison among all types could be ensured in the investigation. As is the case in most investigations, the definition of the product concerned covers a wide variety of product types which share the same or similar basic physical, technical and chemical characteristics. The fact that these characteristics can vary from product type to product type may indeed lead to cover a wide range of types. This is the case in the current investigation. The Commission took account of the differences among the product types and ensured a fair comparison. A unique product control number (PCN) was allocated to each product type, produced and sold by the Indian exporting producers and to each one produced and sold by the Union industry. The number depended on the main characteristics of the product — in this case: the steel grade, the tensile strength, the coating, the surface, diameter, and shape. Therefore, the types of wires exported to the Union were compared on a PCN basis with the products produced and sold by the Union industry that have the same or similar characteristics. All these types fell within the definition of the product concerned and the like product in the notice of initiation ⁽¹⁾ and in the provisional Regulation.
- (17) One party reiterated its claim that the so-called ‘highly technical’ product types are different and not interchangeable with other types of the product concerned. Hence, they should be excluded from the product definition. According to the case-law of the Court of Justice of the European Union ⁽²⁾, when determining whether products are alike so that they form part of the same product, an assessment as to whether they share the same technical and physical characteristics, and have the same basic end-uses and the same price-quality ratio, has to be carried out. In that regard, the interchangeability of, and competition between, those products should also be assessed. The investigation found that the ‘highly technical’ product types referred to by the party have the basic physical, chemical, and technical characteristics as the other products subject to the investigation. They are made from stainless steel and they are wires, and the production process is similar, using similar machines, such that producers can switch between different variants of the product according to demand. Therefore, although different types of wires are not directly interchangeable and do not directly compete, producers are competing for contracts covering a broad range of stainless steel wires. Moreover, these product types are produced and sold by both the Union industry and the Indian exporting producers using a similar production method. Therefore, the claim cannot be accepted.
- (18) In response to final disclosure, one party claimed that the analysis carried out by the Commission in terms of establishing whether the so-called highly technical product types should be included in the investigation was insufficient. This argument is rejected. The investigation established that the highly technical product types fall within the product definition as stated in recital 17. The party wrongly assumes that all the criteria referred to in the case-law have to be met at the same time.. According to the case-law of the Court of Justice of the European Union ⁽³⁾, the Commission enjoys a wide discretion when defining the product scope, and has to base this assessment on the set of criteria developed by the Court. Often, as in the present case, some criteria may point in one and some in the other direction; in such a situation, the Commission needs to carry out a global assessment, as it has done in the present case. It is therefore wrongly assumed by this interested party that product types need to share all characteristics in order to fall in the same product definition.
- (19) Some users claimed that the so-called stainless steel ‘series 200’ wires should be excluded from the product scope. In particular, they alleged this type was hardly produced by the Union industry. However, this claim is unfounded. First, the fact that a certain product type is not produced by the Union industry is not a sufficient reason to exclude it from the scope of the investigation, where the production process is such that Union producers could start producing the product type in question. Second, as for highly technical wires, it was found that these types of the product concerned have basic physical, chemical, and technical characteristics identical or similar to other types of the like product produced and sold by the Union industry. Therefore, the claim cannot be accepted.
- (20) Alternatively, they claimed that wire rod should be included in the definition of the product concerned. However, wire rod is the raw material used for the production of the product concerned but can also be used for the production of different products such as fasteners and nails. Therefore, contrary to the product concerned, it does not constitute a finished steel product. Through the cold forming production process, the wire rod, amongst other products, can be transformed into the product concerned or the like product. On that basis, wire rod cannot be included in the product scope within the meaning of the basic Regulation.

⁽¹⁾ OJ C 240, 10.8.2012, p. 6.

⁽²⁾ See Case C-595/11, *Steinel Vertrieb GmbH v Hauptzollamt Bielefeld* (Judgment of the Court (Second Chamber) of 18 April 2013). Not yet published.

⁽³⁾ See Case T- 170/94, 1997 ECR II-1383, at paragraph 64.

- (21) On the basis of the above, the definition of the product concerned and the like product in recitals 21 to 24 of the provisional Regulation are hereby confirmed.

C. DUMPING

1. Introduction

- (22) During the verification visits at the premises of the three originally sampled Indian exporting producers and the subsequent analysis of the collected information, it was found that these companies had submitted some information which could not be considered reliable. The Commission continued its investigation, analysing all information submitted in reaction to the provisional disclosure and in subsequent hearings.
- (23) As indicated in recital 26 of the provisional Regulation, in the case of one exporting producer, the Commission had found that the costs reported in the questionnaire reply could not be reconciled with the company's internal cost reporting system. The company had argued that the lack of reconciliation was caused by registration errors and a valuation method of stocks that differed between the internal cost reporting system and the data published in the annual accounts.
- (24) As explained in recital 28 of the provisional Regulation, although the data contained in the internal cost reporting system were consistent with the audited financial statements at company-wide level, it was not possible to reconcile the data generated by the internal cost reporting system for the wire division to the cost tables specifically prepared by the company in reply to the investigation's questionnaire. Hence, in accordance with Article 18 of the basic Regulation, it was considered that the information found in the internal cost reporting system should be used for the purpose of the anti-dumping investigation.
- (25) For that reason, the Commission provisionally adjusted the cost data provided by the exporting producer in its questionnaire reply by using the facts available in the internal cost reporting system.
- (26) As noted in recital 27 of the provisional Regulation, the exporting producer argued that the data in the internal cost reporting system were not reliable and should not be used for the purpose of the investigation. The company pointed to several errors and conceptual problems regarding the internally reported figures on which the Commission had based its adjustment of the costs. The company claimed that the Commission should have based its analysis on the costs reported in the questionnaire reply. Additionally, at a later stage following the provisional measures, the company provided a reconciliation between the internally reported divisional cost figures and the questionnaire reply. On that basis, and having regard to the evidence collected during the on-spot visit, certain manufacturing costs originally reported by that company in its questionnaire reply could then be accepted.
- (27) However, on the basis of the evidence at hand, the allocation of certain costs such as overheads and finance costs reported by the company in its questionnaire reply could not be considered as reliable for the purpose of the investigation. The Commission considered that these costs should be allocated based on the total company turnover and cost of goods sold in accordance with Article 2(5) of the basic Regulation. Based on the above, most of the costs reported in the questionnaire reply could be accepted and the turnover allocation was agreed by the company at the definitive stage of the investigation. The level of the dumping margin decreased following a revision of packing costs and certain overheads. It is thus considered that Article 18 of the basic Regulation should no longer apply to establish the dumping margin of this exporting producer.
- (28) As set out in recital 30 of the provisional Regulation, in the case of a second exporting producer, the Commission found that the purchases and the consumption of raw materials reported in the company's questionnaire reply were not supported by the data found in the producer's inventory management system. In particular, it appeared that the distribution of steel grades was different in each of the sources. The Commission established that the steel grade is a key factor in the determination of the cost of the final product and that unreliable information concerning the steel grade could seriously distort the determination of costs and sales prices of individual product types and could therefore be misleading, and made the exporting producer aware of this essential consideration at various occasions.
- (29) As set out in recital 31 of the provisional Regulation, the exporting producer claimed, however, that the computer files containing the purchases of raw material collected by the Commission during the verification visit were incomplete, because additional purchases of raw material had been made by other units in the company, but had not been reported and were not included in the computer files collected during the verification visit and examined by the Commission. Furthermore, the exporting producer claimed that the observed discrepancies in the quantities of steel grades were due to the fact that some steel grades were partly overlapping with each other and that some parts of the production process were not traceable at the level of individual steel grades.

- (30) In recital 32 of the provisional Regulation, the Commission, however, noted that the above claims made by the company relating to the additional purchases of raw material had not been substantiated and in any event were not sufficient to explain the observed discrepancies at the level of individual steel grades. The Commission also noted that the company had alleged that it was not possible to make an exact tracing by individual steel grades in all the stages of the production process. This acknowledgment further undermined the reliability of the reporting system of steel grades as a whole. The information provided concerning steel grades was therefore provisionally considered misleading.
- (31) In recital 33 of the provisional Regulation, the Commission considered that the reported distribution of raw material by steel grade was not reliable and should be provisionally disregarded and that the determinations should be made on the basis of facts available pursuant to Article 18 of the basic Regulation. Due to the unreliability of the reporting system as a whole, it was not possible to make the determinations on the basis of any of the reported steel grades. Therefore the total consumption of all raw materials taken as a whole, without considering the distribution by steel grade, was used in calculating an overall dumping margin for all products.
- (32) Following the publication of the provisional findings, the company contested this provisional approach in general terms but continued being unable to offer a one-to-one matching at PCN level. However, later in the investigation the company offered a sufficient degree of reconciliation when the raw material is grouped in the main series of stainless steel grades according to their chemical composition (the 200-, 300- and 400-series in the AISI classification). The company also offered an alternative way of grouping in which the final end-use was included as an additional grouping factor. However, as the final end-use cannot be verified, the Commission recalculated the dumping margin on the basis of the steel grades grouped by their chemical composition, as expressed in the series of steel grades (the 200-, 300- and 400-series in the AISI classification). The series of steel grades are a generally used, objective and verifiable criterion whereas, for this company, the use of the PCN did not allow for full reconciliation and therefore would not ensure a fair comparison on the basis of reliable data within the meaning of the basic Regulation.
- (33) Since the additional information submitted by the company did not allow for the data to be reconciled in the sufficiently detailed manner required for the investigation, the provisional conclusion that the company's tracing systems were not sufficiently reliable is maintained and Article 18 of the basic Regulation is applied for the definitive determination of cost of production and the dumping margin calculation, which is therefore based on the approach referred to in the previous recital.
- (34) As indicated in recital 34 of the provisional Regulation, in the case of the third exporting producer, during the verification visit the Commission found that the flows of raw materials reported in the questionnaire reply were not consistent with the data contained in the producer's accounting system. It appeared that the distribution per steel grades was different in each of the two sources.
- (35) As indicated in recital 35 of the provisional Regulation, the exporting producer, while admitting some errors in its questionnaire reply, alleged that the differences in the overall quantities of raw material could be reconciled by taking into account the changes in inventories. However, the company also alleged that partly overlapping steel grades made it impossible to make an exact reconciliation as per each individual steel grade. In its comments following the provisional findings, it also stated that, occasionally, the steel grade indicated on the sales invoice did not correspond to the actual steel grade being exported. Furthermore, the company argued that steel grades were not used in a precise manner in the stainless steel industry, and that there were variations between the published chemical compositions of steel grades and the actual products. The company argued that when taking into account these explanations, the discrepancies identified by the Commission would concern only an insignificant proportion of its exports.
- (36) The Commission considered that the volume of the detected discrepancies could not be explained by occasional imprecisions. On the contrary, the arguments being put forward contributed to undermining the reliability of the company's reporting system of steel grades as a whole, especially in light of the decisive nature of steel grades in the determination of the cost of the final product.
- (37) However, later in the investigation, the company claimed that if the Commission did not accept the company's initial reporting of steel grades, a more accurate result could be obtained if, instead of merging all PCNs together as had been done at the provisional stage, the Commission would group together only those specific steel grades between which discrepancies had been identified, or alternatively would group together the steel grades according to their chemical composition expressed in the series of steel grades (the 200-, 300- and 400-series in the AISI classification). The company also offered yet another method of further grouping the steel grades in the 300-series into smaller subgroups.

- (38) The Commission consequently recalculated the dumping margin on the basis of the stainless steel groups based on the chemical composition as expressed in the series of steel grades (the 200-, 300- and 400-series in the AISI classification) so as to follow the same method as described in recital 30. The series of steel grades are a generally used, objective and verifiable criterion whereas, for this company, the use of the PCN did not allow for full reconciliation and therefore would not ensure a fair comparison on the basis of reliable data within the meaning of the basic Regulation.
- (39) Since the additional information submitted by the company did not allow for the data to be reconciled in the sufficiently detailed manner required for the investigation, the provisional conclusion that the company's tracing systems were not sufficiently reliable is maintained and Article 18 of the basic Regulation is applied for the definitive determination of cost of production and the dumping margin calculation, which is therefore based on the approach referred to in the previous recital.
- (40) The complainant submitted that the grouping of the product concerned into steel grades prevented the Commission from performing a correct profitability test in order to determine the normal values per PCN.
- (41) The Commission performs its analysis at a level that is consistent with the internal accounting systems of the exporting and Union producers, which allow for the reported figures to be substantiated. The claim is therefore rejected.
- (42) In the absence of other comments, recitals 37 and 38 of the provisional Regulation are confirmed.
- (43) For one exporting producer for which Article 18 of the basic Regulation is applied, the determination of the normal value has been reviewed following the reassessment of its cost of production. In the definitive stage, the cost of production was determined based on the reported manufacturing costs to which selling, general and administrative costs, inclusive of finance costs, were added using an allocation method permitted by Article 2(5) of the basic Regulation.
- (44) For the three newly sampled exporting producers, and the exporting producer granted individual examination, domestic sales volumes were found to be representative overall, representing at least 5 % of the total company's export sales volume of the product concerned to the Union. The same representativity test was also performed for each product type sold by the newly sampled producers on their domestic markets and found to be comparable with the product types sold for export to the Union, in accordance with Article 2(2) of the basic Regulation.
- (45) By establishing the proportion of profitable sales to independent customers in the domestic market during the IP, the Commission further examined whether the domestic sales of each newly sampled exporting producer and the exporting producer granted individual examination, could be considered as having been sold in the ordinary course of trade, in accordance with Article 2(4) of the basic Regulation.
- (46) In the case of one of the newly sampled exporting producers, the cost allocation initially submitted by the company was found to be inadequate since it disregarded the thickness of the wire which is a significant cost driver. With the agreement of the company, the cost allocation method was adjusted.
- (47) In the case of a second newly sampled exporting producer, a clerical error in the determination of the dumping margin was corrected. Furthermore the producer requested that the Commission make additional adjustments in the profitability test and price allowances. These claims were not found to be warranted.
- (48) In the case of the exporting producer granted individual examination, a clerical error in the calculations was corrected. The same exporting producer made further claims on the Commission's determination of the level of the selling, general and administrative costs and the domestic transport costs and requested an adjustment for physical differences of the product concerned between the domestic and export markets. These claims were rejected because the calculations were based on the cost data submitted by the company that had been verified during the verification visit and because the claim regarding physical differences was not substantiated.
- (49) As a consequence, the methodology for determining normal value as described in recitals 39 to 48 of the provisional Regulation is confirmed and was applied to the three newly sampled exporting producers and the exporting producer granted individual examination.

2. Normal value

3. Export price

- (50) For one exporting producer, following its claims, certain clerical errors, relating to the occasional use of a wrong exchange rate and the erroneous inclusion of certain intragroup sales in the dumping calculation were rectified.
- (51) For a second exporting producer, sales via a related company in the Union were included in the dumping calculation.
- (52) One newly sampled exporting producer claimed that the benefits it had received under the DEPB and DDS subsidy schemes needed to be added to the export prices.
- (53) Another newly sampled exporting producer reported the benefits it received under the DDS subsidy scheme as negative price allowances, artificially increasing the export prices.
- (54) The Commission analysed the price behaviour of both companies on the Union market and arrived at its findings, which result from the application of Article 2(8) of the basic Regulation and therefore do not require further adjustment. The former company's claim was therefore rejected and the latter company's reported allowance disregarded.
- (55) One newly sampled exporting producer claimed that its export prices should be corrected upward in order to bring them in line with its domestic prices because the domestic sales were made under an own brand name, attracting higher prices. The company could not, however, substantiate that the invoices for which it made the claim were indeed referring to branded sales and, consequently, the claim was rejected.
- (56) In the absence of other comments, recitals 50 to 52 of the provisional Regulation are confirmed.

4. Comparison

- (57) One exporting producer claimed that, since all PCNs were collapsed for the determination of its cost of production, export prices should be treated in the same way and a single export price should have been used for the comparison to the normal value.
- (58) The Commission in its investigation aimed at obtaining cost and export price data on a PCN basis, but did not obtain from the company concerned the necessary

reconciliations that would have allowed the identification of reliable costs of production on a PCN basis. The investigation found, however, no deficiency with the export price levels reported by PCN, and it would therefore not have been appropriate to apply Article 18 of the basic Regulation to the determination of the actual export prices. Since the Commission did not consider it appropriate to reduce the level of detail of reported prices compared to the standards of the investigation in order to make a fair comparison, the claim was rejected.

- (59) In the absence of other comments, recitals 53 to 55 of the provisional Regulation are confirmed.

5. Dumping margin

- (60) As provided for by Article 2(11) and (12) of the basic Regulation, for each sampled company the weighted average normal value established for the like product was compared with the weighted average export price of the product concerned.
- (61) In line with Article 9(6) of the basic Regulation, due to the application of Article 18 of the basic Regulation to two of the three initially sampled exporting producers, the dumping margin of the cooperating exporting producers not included in the sample is established on the basis of the average dumping margin of the one originally sampled exporting producer for which Article 18 of the basic Regulation is no longer applied and the two newly sampled companies with dumping margins that are not *de minimis*. On this basis, the dumping margin calculated for the cooperating companies not included in the sample was established at 8,4 %.
- (62) With regard to all other exporting producers in the country concerned, the Commission first established the level of cooperation. To this end, a comparison was made between the total export quantities indicated in the sampling replies and the total imports from the country concerned as derived from the Eurostat import statistics. Since the level of cooperation was high, the residual dumping margin was set at the level of the highest dumping margin established for the sampled exporting producers. On this basis, the country-wide level of dumping was established at 16,2 %.

- (63) On this basis, the weighted average dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Definitive dumping margin
GARG Inox	11,8 %
KEI Industries	7,7 %
Macro Bars and Wires	0,0 %
Nevatia Steel & Alloys	4,1 %
Raajratna Metal Industries	16,2 %
Venus Group	11,6 %
Viraj Profiles	6,8 %
Cooperating non-sampled companies	8,4 %
All other companies	16,2 %

D. UNION INDUSTRY

1. Union industry

- (64) Some users questioned the number of Union producers in recital 63 of the provisional Regulation. They claimed that the number of producers was wrongly assessed and in reality there were fewer producers present on the Union market.
- (65) The Commission points out that the above claim was not substantiated by any evidence. The Commission has verified the number of Union producers stated in the complaint when verifying standing and also during the investigation. The Commission contacted all 27 known Union producers in this respect. The investigation confirmed that 27 Union producers were manufacturing the like product in the Union during the IP. The claim is therefore rejected and recital 63 of the provisional Regulation is confirmed.

2. Union production and Sampling of Union producers

- (66) In the absence of comments, recitals 64 to 67 of the provisional Regulation are confirmed.

E. INJURY

1. Union consumption

- (67) Some users claimed that the injury analysis should have disregarded the data relating to 2009 because the

financial crisis which occurred that year had distorting effects, in particular on Union consumption. However, even if 2009 was excluded from the analysis, there would still be a growing trend for consumption (+ 5 %) which is an indication of an improving market. Moreover, the negative effects of the financial crisis are recognised in recital 68 of the provisional Regulation. In absence of other comments, recital 68 of the provisional Regulation is confirmed.

2. Imports into the Union from the country concerned

- (68) The dumping margin established for the exporting producer, Macro Bars and Wires, is below the *de minimis* threshold provided for in Article 9(3) of the basic Regulation. Therefore, it is deemed that this exporting producer has not dumped within the meaning of Article 1(2) of the basic Regulation during the investigation period. As a result, its import volumes were excluded from the volume of provisionally established dumped imports from the country concerned. Another exporting producer, namely the Venus group, submitted that certain transactions were mistakenly double-counted. The Commission agreed with the exporting producer, and adjusted the total volume of dumped imports by eliminating these transactions.
- (69) Accordingly the volume, market share and average price of the dumped imports were revised.
- (70) Volume and market share of the dumped imports:

	2009	2010	2011	IP
Volume	15 826	27 291	34 494	33 252
Index (2009 = 100)	100	172	218	210
Market share	12,0 %	14,6 %	17,6 %	16,9 %
Index (2009 = 100)	100	121	146	140

Source: Eurostat and questionnaire replies

- (71) Macro Bars and Wires exported limited quantities of the product concerned during the IP and the transactions of the Venus group mentioned above also constituted limited quantities. Therefore the deduction of these import volumes from the total volume of dumped imports from the country concerned does not result in significant changes concerning the trends described in recitals 69 and 71 of the provisional Regulation. Thus these recitals to the provisional Regulation are confirmed.

- (72) Average price of the dumped imports:

	2009	2010	2011	IP
Average price	2 380	2 811	3 259	3 207
Index (2009 = 100)	100	118	137	135

Source: Eurostat and questionnaire replies

- (73) The adjustment of the volume of dumped imports does not result in any significant change of the average prices of the dumped Indian imports or the undercutting margin calculations. The weighted average undercutting margin is 15 %, which confirms the finding in the provisional Regulation.

- (74) An Indian exporting producer claimed that the Union sales prices seemed highly implausible and likely to be distorted. It is, however, underlined that the prices used in the undercutting calculations were the result of information collected and verified during on-the-spot investigations at the premises of the sampled Union producers.

- (75) The conclusions drawn from the findings described in recitals 75 to 77 of the provisional Regulation are confirmed.

3. Economic Situation of the Union industry

- (76) Some parties claimed that the results obtained by the Union industry should be considered as reasonably positive in the context of the global economic crisis and that, with the exception of one injury indicator, namely market share, all other indicators did not point toward the existence of injury.

- (77) One party claimed that the average selling prices of the Union industry increased by around 34 % far more than its cost of production which increased by 13 % over the same period. In this respect it needs to be noted that at the beginning of the period considered, namely in 2009, the Union industry was selling below cost of production, and only managed to sell above cost of production from 2011 onwards.

- (78) The investigation showed that although some injury indicators such as production volumes and capacity utilisation followed a positive trend, or remained stable such as employment, a number of other indicators

relating to the financial situation of the Union industry, namely profitability, cash flow, investment and return on investment did not follow a satisfactory trend during the period considered. While the indicator relating to investments improved in 2010, it dropped below 2009 figures in 2011 and the IP. Although it is true that return on investments improved from 2009 until 2011 reaching 6,7 %, it dropped again to 0,8 % in the IP. Similarly indicators relating to profitability and cash flow improved until 2011 and they started again to deteriorate in the IP. Therefore, it can be concluded that the Union industry started to improve after 2009, but its recovery was slowed down by the dumped imports from the country concerned subsequently.

- (79) On a request by an interested party it is confirmed that the stock levels established in recital 100 of the provisional Regulation concerned the activity of the sampled Union companies.

- (80) The Union industry argued that the target profit margin of 5 % set at the provisional stage was too low. The party did not substantiate its claim sufficiently. Recital 95 of the provisional Regulation explains the reasons behind the choice of this profit margin and the investigation did not reveal any other reasons to change it. Therefore, the target profit of 5 % is maintained for the purpose of the definitive findings.

- (81) One exporting producer argued that the Union industry's difficulties are largely due to structural problems and that, therefore, the target profit margin of 5 % was unrealistic.

- (82) It is recalled that according to the case law ⁽¹⁾, the Institutions need to establish the profit margin which the Union industry could reasonably count on under normal conditions of competition, in the absence of the dumped imports. In 2007, the profit margin was 3,7 %; as of 2008, due to the financial and economic crisis, it became negative. The complaint argued, and the investigation established, that dumped imports started to arrive on the Union market as of 2007, when the volume of imports increased from 17 727 tonnes in 2006 to 24 811 tonnes. Therefore, it was not possible to establish the target profit margin based on the profit which could reasonably be counted on by the Union producers of the like product. Consequently, as explained in recital 95 of the provisional Regulation, the Commission considered it appropriate using the profit margin of 5 % on the basis of the real profits

⁽¹⁾ Case T-210/95, 1999 ECR II-3291, at paragraph 60.

observed in other parts of the steel industry, which have not suffered from dumped and subsidized imports, as has been done in other recent investigations into similar product in the same sector.⁽¹⁾ Additionally, it should be noted that the 3,7 % profit margin observed in 2007 is considered in any case too low because of the presence and increase of dumped imports. Therefore, the target profit of 5 % is maintained for the purpose of the definitive findings.

4. Conclusion on injury

- (83) The Commission therefore concludes that the Union industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation. In the absence of other comments, recitals 78 to 105 of the provisional Regulation are confirmed.

F. CAUSATION

1. Effect of dumped imports

- (84) One exporting producer claimed that the provisional Regulation ignored that the Union industry was able to benefit from the increase in consumption since 2009 and that the Commission cannot assume that the Union industry will be able to maintain its market share indefinitely.
- (85) In response to these arguments it needs to be noted that the investigation revealed the market share of the dumped Indian imports grew with a higher pace than the consumption in the Union market. The volume of Indian dumped imports increased by 110 % while the consumption increased by 50 % over the same period. Furthermore the investigation also showed that the average Indian price was constantly below the average price of the Union industry during the same period and undercut the Union industry average price by 15 % during the IP. As a result, while the Union industry indeed benefited from the increased consumption to a certain extent and it also could increase its sales volumes by 40 %, it could not maintain its market

share as it could be expected under improving market conditions and given the Union industry's free production capacity.

2. Effect of other factors

2.1. Non-dumped imports

- (86) Over the period considered, the development of non-dumped imports and prices is comparable to the evolution of dumped imports and prices. Moreover, prices of dumped imports were fundamentally at the same level as the prices of the non-dumped imports, in that average non-dumped import prices were lower by 0,4 %. In addition, the volume of non-dumped imports is less than six per cent of total imports from the country concerned and slightly more than one percent of market share. Therefore, the Commission considers that the injury caused by non-dumped imports from the country concerned does not break the causal link between the dumped imports from the country concerned and the material injury suffered by the Union industry during the IP.

2.2. Imports from third countries

- (87) Two Indian exporting producers and the Government of India reiterated the claim that imports of stainless steel wire originating in the People's Republic of China ('China') should have been included in the investigation and that the impact the imports from China had on the Union market and the Union industry was underestimated.
- (88) As mentioned in recital 115 of the provisional Regulation, since the initiation stage, no evidence of dumping causing injury to the Union industry, which may have justified the initiation of an anti-dumping investigation on imports originating in China, has been presented. The claim that China should have been included in the scope of the investigation is therefore rejected as unfounded.

⁽¹⁾ Council Regulation (EC) No 383/2009 of 5 May 2009 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pre- and post-stressing wires and wire strands of non-alloy steel (PSC wires and strands) originating in the People's Republic of China (OJ L 118, 13.5.2009, p. 1); Commission Regulation (EU) No 1071/2012 of 14 November 2012 imposing a provisional anti-dumping duty on imports of threaded tube or pipe cast fittings, of malleable cast iron, originating in the People's Republic of China and Thailand (OJ L 318, 15.11.2012, p. 10); Commission Regulation (EU) No 845/2012 of 18 September 2012 imposing provisional anti-dumping duty on imports of certain organic coated steel products originating in the People's Republic of China (OJ L 252, 19.9.2012, p. 33).

- (89) However, the imports from China showed an increasing trend during the period considered and reached a market share of 8,3 % in the IP as stated in recital 113 of the provisional Regulation. In addition, the Chinese import prices were lower than the prices of the Union industry and those of the Indian exporting producers in the Union market. It was, therefore, further investigated whether the imports from People's Republic of China could have

contributed to the injury suffered by the Union industry and broken the causal link between that injury and the Indian dumped imports.

(90) The information available at provisional stage suggested that the product mix represented by the Chinese imports was different and that the ranges where the Chinese products were present were different compared to the products sold by the Union industry or even those of Indian origin products sold in the Union market.

(91) After publication of the provisional measure the Commission received several claims pointing to the possibility that Chinese low-priced imports during the IP would break the causal link between dumped Indian imports and material injury suffered by the Union industry.

(92) Analysis made on the basis of the import statistics concerning the two CN codes under investigation showed that 29 % of Chinese imports were made on the lower end of the market (under CN code 7223 00 99). This partly explains why Chinese prices on average are lower than those of the Union industry and the Indian exporting producers'. The statistics for CN code 7223 00 99 also showed that the customers of the Chinese producers were concentrated in the United Kingdom where the Union industry was basically not producing.

Average price (EUR/MT)	2009	2010	2011	IP
72 230 019	2 974	3 286	3 436	2 995
72 230 099	765	1 458	1 472	1 320

Source: Eurostat

(93) As concern CN code 7223 00 19 the analyses carried out on PCN basis showed that both the Union industry and Indian producers were mainly competing in the higher end of the market where prices could be up to four times higher than prices in the lower end within the same CN (¹). The investigation also showed that in general price variations are linked to the product type and the nickel content.

(¹) However, it is noted that both the Union industry and the Indian exporting producers are also present in the lower end of the market even if to a lesser extent.

(94) As concerns the price level of imports from the People's Republic of China, it needs to be pointed out that from 2009 until the IP the average price of Chinese imports remained above the price of the dumped exports of the product concerned from India, as can be seen from the following table showing the average price of Chinese exports falling under CN code 7223 00 19.

Average price (EUR/MT)	2009	2010	2011	IP	IP + 1
72 230 019	2 974	3 286	3 436	2 995	3 093

Source: Eurostat

(95) In the IP for the first time the average Chinese import price dropped below that of the Indian import price of dumped imports. However, this observation was found to be of a temporary nature since the Chinese price level in the year after the IP increased and was again higher than the Indian prices.

(96) Furthermore, the comparison between the import volumes from the country concerned and People's Republic of China showed that at any point during the period considered and particularly in the IP, imports from People's Republic of China were at much lower levels than the imports from India. The import volumes for People's Republic of China amounted to basically less than half of the total imports from India.

(97) Therefore, even if the imports from the People's Republic of China contributed to the injury suffered by the Union industry they could not have affected the situation of the Union industry to the extent to break the causal link between the dumped imports from the country concerned and the injury suffered by the Union industry. Therefore, recital 113 of the provisional Regulation is confirmed.

2.3. Competition from other producers in the Union

(98) One party argued that the Union producers' poor financial performance might have been caused by competition from other Union producers which were not complainants or did not express their support to the investigation at the initiation of the case.

- (99) The market share of other producers in the Union developed as follows:

	2009	2010	2011	IP
Union sales of other producers in the Union (MT)	34 926	55 740	55 124	55 124
<i>Index (2009 = 100)</i>	100	160	158	158
Market share of other producers in the Union	26,6 %	29,8 %	28,1 %	27,9 %

Source: complaint and standing replies

- (100) The Union producers which were not complainants and which did not specifically express support to the investigation accounted for 44 % of total Union sales reported in recital 86 of the provisional Regulation. Their sales volume increased by 58 % from an estimated 34 926 tonnes in 2009 to 55 124 tonnes during the period considered. However, such growth is relatively modest if compared to the growth of the dumped imports from the country concerned in the same period (+ 110 %). Furthermore, the market share of those Union producers remained relatively stable during the period considered and no indication was found that their prices were lower than those of the sampled Union producers. It is therefore concluded that their sales on the Union market did not contribute to the injury suffered by the Union industry.

3. Conclusion on causation

- (101) In the absence of comments, recitals 121 to 124 of the provisional Regulation are confirmed.

G. UNION INTEREST

1. General considerations

- (102) In the absence of comments, recital 125 of the provisional Regulation is confirmed.

2. Interest of the Union industry

- (103) In the absence of comments, recitals 126 to 133 of the provisional Regulation are confirmed.

3. Interest of unrelated importers

- (104) In the absence of comments, recitals 142 to 144 of the provisional Regulation are confirmed.

4. Interest of users

- (105) Following the imposition of the provisional measures, seven users and one users' association contacted the Commission and showed interest to cooperate in the investigation. Following their request, questionnaires were sent to them in April 2013. However, only two users submitted a full questionnaire reply and overall the cooperating users represented 12 % of total imports from the country concerned during the IP and 2,5 % of the total Union consumption, while employing 32 persons involved in manufacturing finished products incorporating the product concerned. The economic impact of the measures on users was reassessed on the basis of the new data available in the questionnaire replies and two users were visited to verify the information provided.
- (106) Users claimed that the level of profitability of 9 %, stated in recital 136 of the provisional Regulation was too high and was not representative for the users' industry. Following the receipt of the additional questionnaire replies the average profitability of all cooperating users was recalculated and established at 2 % on turnover.
- (107) It was also found that on average concerning the cooperating users, purchases from the country concerned constituted 44 % of the total purchases of the product concerned, and that the country concerned represented the exclusive source of supply for two cooperating users. During the IP, the turnover of the product incorporating the product concerned represented on average 14 % of total turnover of the cooperating users.
- (108) Assuming the worst case scenario for the Union market, i.e. that no potential price increase could be passed on to the distribution chain and that the users would continue purchasing from the country concerned in previous volumes, the impact of the duty on the users' profitability achieved from activities using or incorporating the product concerned would mean a decrease to the point where users would become loss making, reaching a (negative) profitability of - 0,6 %.
- (109) The Commission acknowledges that the impact in the short and medium term will be more important, on an individual level, for those users which source their entire imports from India. However, these are relatively few in numbers (two of the cooperating users). Furthermore, they have the possibility, provided that their Indian

producer cooperates, to request the refund of the duties pursuant to Article 11 of the Basic Regulation, if all conditions for such a refund are met.

(110) Some users reiterated the concern that measures would hit certain type of wires not produced in Europe, namely types included in the so-called series 200 as described in recital 139 of the provisional Regulation. According to the users, the absence of production in the Union is due to the limited demand and to the specificity of the production process.

(111) However, the investigation showed that such type of stainless steel wires are produced by the Union industry and that they represent a limited share of the Union market. For users, there are also alternative sources of supply available from countries not subject to anti-dumping or anti-subsidy measures. Furthermore, other product types of stainless steel wires can be used for the same purposes. Therefore, the imposition of the measures cannot have a significant impact on the Union market and on these users. This claim is therefore rejected.

(112) Some users pointed out the longer delivery time for the like product by the Union producers compared to the delivery time of the product concerned from India. However, the possibility of merchants and traders of stocking the products and of having them swiftly available does not undermine the factual evidence of the negative effects of the dumped imports. Therefore, this argument has to be rejected.

(113) Taking the above into consideration, even if some users are likely to be negatively affected by the measures on imports from the country concerned more than others, it is considered that in balance the Union market will benefit from the imposition of the measures. In particular, it is considered that restoring fair trade conditions on the Union market would allow the Union industry to align its prices with cost of production; to keep production and employment; to regain the market share previously lost and to benefit from increased economies of scale. This should allow the industry to reach reasonable profit margins that will permit it to operate efficiently in the medium and long term. In parallel the industry will improve its overall financial situation. In addition, the investigation established that the measures will have an overall limited impact on the users and on unrelated importers. Therefore it is concluded that the overall benefit of the measures appears to outweigh the impact on the users of the product concerned in the Union market.

5. Conclusion on Union interest

(114) In view of the above, the assessment in recitals 145 and 146 of the provisional Regulation is confirmed.

H. DEFINITIVE ANTI-DUMPING MEASURES

1. Injury elimination level

(115) For one exporting producer the injury elimination calculation was adjusted downward following its claim that clerical errors had been made by confusing the exchange rate on certain transactions and the inclusion of intra-group transactions in the calculation. In the absence of any other comments, recitals 148 to 151 of the provisional Regulation are confirmed.

(116) The same exporting producer claimed that the Indian exports to the Union are made to wholesalers and that sales by the Union industry on the Union market are made to end-users and that therefore the Commission did not compare at the appropriate level of trade. However, the investigation showed that the Indian exporting producers are selling to both categories of customers and that they are competing with the Union producers for the same categories of clients.

2. Conclusion on injury elimination level

(117) No individual injury margin was calculated for Macro Bars and Wires since this company's definitive anti-dumping margin was at *de minimis* level as stated in recital 51.

(118) The methodology used in the provisional Regulation is hereby confirmed.

3. Definitive measures

(119) In the light of the above and in accordance with Article 9(4) of the basic Regulation, a definitive anti-dumping duty should be imposed at a level sufficient to eliminate the injury caused by the dumped imports taking into account the subsidy margin imposed Commission Regulation (EU) No 419/2013.

(120) Therefore, the dumping duty rates were established by comparing the injury margins to the dumping margins, while taking the subsidy margins into account by fully deducting them from the relevant dumping margin. Consequently, the definitive anti-dumping duty rates are as follows:

Company	Dumping margin	Countervailing duty	Injury margin	Definitive anti-dumping duty rate
GARG Inox	11,8 %	3,4 %	22,6 %	8,4 %
KEI Industries	7,0 %	0,0 %	41,9 %	7,7 %
Macro Bars and Wires	0,0 %	3,4 %	30,3 %	0,0 %
Nevatia Steel & Alloys	4,1 %	3,4 %	23,8 %	0,7 %
Raajratna Metal Industries	16,2 %	3,7 %	17,2 %	12,5 %
Venus group	11,6 %	3,0 %	23,4 %	8,6 %
Viraj Profiles Vpl. Ltd	6,8 %	0,0 %	32,1 %	6,8 %
Cooperating non-sampled companies	8,4 %	3,4 %	23,7 %	5,0 %
All other companies	16,2 %	3,7 %	41,9 %	12,5 %

(121) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are exclusively applicable to imports of products originating in India and produced by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this regulation, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(122) One exporting producer in the country concerned offered a price undertaking in accordance with Article 8(1) of the basic Regulation.

(123) In recent years, the product concerned has shown a considerable volatility in prices and therefore it is not suitable for a fixed price undertaking. In order to overcome this problem, the Indian exporting producer offered an indexation clause based on raw material costs. In this respect it is noted that no direct and precise link between the fluctuation of prices and that of the index could be established and, thus, indexation is not considered appropriate. In addition, the investigation established that there are different types of the product concerned which are not easily distinguishable and have considerable differences in prices.

(124) Furthermore, the exporting producer produces a range of stainless steel products and may sell these products to the same customers in the Union via related trading

companies. This would create a serious risk of cross-compensation and would render extremely difficult to monitor effectively the undertaking.

(125) On the basis of the above, the Commission concluded that the undertaking offer cannot be accepted.

(126) Any claim requesting the application of an individual company anti-dumping duty rate (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation imposing the definitive anti-dumping duties will be amended accordingly by updating the list of companies benefiting from individual duty rates.

4. Definitive collection of provisional anti-dumping duties

(127) In view of the magnitude of the dumping margins found and in the light of the level of the injury caused to the Union industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation be definitively collected to the extent of the amount of the definitive duties imposed,

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H, 1049 Brussels, Belgium.

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of wire of stainless steel containing by weight:

— 2,5 % or more of nickel, other than wire containing by weight 28 % or more but not more than 31 % of nickel and 20 % or more but not more than 22 % of chromium,

— less than 2,5 % of nickel, other than wire containing by weight 13 % or more but not more than 25 % of chromium and 3,5 % or more but not more than 6 % of aluminium,

currently falling within CN codes 7223 00 19 and 7223 00 99 and originating in India.

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

Company	Duty (%)	TARIC additional code
Garg Inox, Bahadurgarh, Haryana and Pune, Maharashtra	8,4	B931
KEI Industries Ltd, New Delhi	7,7	B925
Macro Bars and Wires, Mumbai, Maharashtra	0,0	B932
Nevatia Steel & Alloys, Mumbai, Maharashtra	0,7	B933
Raajratna Metal Industries, Ahmedabad, Gujarat	12,5	B775
Venus Wire Industries Pvt. Ltd, Mumbai, Maharashtra	8,6	B776
Precision Metals, Mumbai, Maharashtra	8,6	B777
Hindustan Inox Ltd, Mumbai, Maharashtra	8,6	B778
Sieves Manufacturer India Pvt. Ltd, Mumbai, Maharashtra	8,6	B779

Company	Duty (%)	TARIC additional code
Viraj Profiles Ltd, Thane, Maharashtra and Mumbai, Maharashtra	6,8	B780
Companies listed in the Annex	5,0	B781
All other companies	12,5	B999

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

Article 2

Where an exporting producer from India provides sufficient evidence to the Commission that

(a) it did not export the goods described in Article 1(1) originating in India during the period of investigation (1 April 2011-31 March 2012)

(b) it is not related to an exporter or producer subject to the measures imposed by this Regulation; and

(c) it has either actually exported the goods concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the period of investigation,

Article 1(2) may be amended by adding the new exporting producer to the list in Annex.

Article 3

Amounts secured by way of provisional anti-dumping duties in accordance with Commission Regulation (EU) No 418/2013 on imports of wire of stainless steel containing by weight:

— 2,5 % or more of nickel, other than wire containing by weight 28 % or more but not more than 31 % of nickel and 20 % or more but not more than 22 % of chromium,

— less than 2,5 % of nickel, other than wire containing by weight 13 % or more but not more than 25 % of chromium and 3,5 % or more but not more than 6 % of aluminium,

currently falling within CN codes 7223 00 19 and 7223 00 99 and originating in India, shall be definitively collected. The amounts secured in excess of the definitive rates of the anti-dumping duty shall be released.

Article 4

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

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

Done at Brussels, 5 November 2013.

For the Council
The President
L. LINKEVIČIUS

ANNEX**INDIAN COOPERATING EXPORTING PRODUCERS NOT SAMPLED****TARIC Additional Code B781**

Company name	City
Bekaert Mukand Wire Industries	Lonand, Tal. Khandala, Satara District, Maharastra
Bhansali Bright Bars Pvt. Ltd	Mumbai, Maharashtra
Bhansali Stainless Wire	Mumbai, Maharashtra
Chandan Steel	Mumbai, Maharashtra
Drawmet Wires	Bhiwadi, Rajastan
Jyoti Steel Industries Ltd	Mumbai, Maharashtra
Mukand Ltd	Thane
Panchmahal Steel Ltd	Dist. Panchmahals, Gujarat

COMMISSION IMPLEMENTING REGULATION (EU) No 1107/2013**of 5 November 2013****entering a name in the register of protected designations of origin and protected geographical indications [Carne de Bravo do Ribatejo (PDO)]**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 entered into force on 3 January 2013. It repealed and replaced Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽²⁾.

- (2) Pursuant to Article 6(2) of Regulation (EC) No 510/2006, Portugal's application to register the name 'Carne de Bravo do Ribatejo' was published in the *Official Journal of the European Union* ⁽³⁾.

- (3) As no statement of objection under Article 7 of Regulation (EC) No 510/2006 has been received by the Commission, the name 'Carne de Bravo do Ribatejo' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 5 November 2013.

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ L 93, 31.3.2006, p. 12.

⁽³⁾ OJ C 353, 17.11.2012, p. 18.

ANNEX

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

Class 1.1. Fresh meat (and offal)

PORTUGAL

Carne de Bravo do Ribatejo (PDO)

COMMISSION IMPLEMENTING REGULATION (EU) No 1108/2013**of 5 November 2013****entering a name in the register of protected designations of origin and protected geographical indications [Stromberger Pflaume (PDO)]**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 entered into force on 3 January 2013. It repealed and replaced Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽²⁾.

- (2) Pursuant to Article 6(2) of Regulation (EC) No 510/2006, Germany's application to register the name 'Stromberger Pflaume' was published in the *Official Journal of the European Union* ⁽³⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 5 November 2013.

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ L 93, 31.3.2006, p. 12.

⁽³⁾ OJ C 367, 27.11.2012, p. 8.

ANNEX

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

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

GERMANY

Stromberger Pflaume (PDO)

COMMISSION IMPLEMENTING REGULATION (EU) No 1109/2013**of 5 November 2013****entering a name in the register of protected designations of origin and protected geographical indications [Melone Mantovano (PGI)]**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Italy's application to register the name 'Melone Mantovano' was published in the *Official Journal of the European Union* ⁽²⁾.

- (2) As no statement of objection under Article 51 of Regulation (EC) No 1151/2012 has been received by the Commission, that name should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 5 November 2013.

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ C 132, 9.5.2013, p. 17.

ANNEX

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

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

ITALY

Melone Mantovano (PGI)

COMMISSION IMPLEMENTING REGULATION (EU) No 1110/2013**of 5 November 2013****entering a name in the register of protected designations of origin and protected geographical indications [Queso Los Beyos (PGI)]**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Spain's application to register the name 'Queso Los Beyos' was published in the *Official Journal of the European Union* ⁽²⁾.

- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Queso Los Beyos' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 5 November 2013.

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ C 60, 1.3.2013, p. 11.

ANNEX

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

Class 1.3. Cheeses

SPAIN

Queso Los Beyos (PGI)

COMMISSION IMPLEMENTING REGULATION (EU) No 1111/2013**of 5 November 2013****entering a name in the register of protected designations of origin and protected geographical indications [Lietuviškas varškės sūris (PGI)]**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Lithuania's application to register the name 'Lietuviškas varškės sūris' was published in the *Official Journal of the European Union* ⁽²⁾.

- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Lietuviškas varškės sūris' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 5 November 2013.

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ C 57, 27.2.2013, p. 24.

ANNEX

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

Class 1.3. Cheeses

LITHUANIA

Lietuviškas varškės sūris (PGI)

COMMISSION IMPLEMENTING REGULATION (EU) No 1112/2013**of 5 November 2013****entering a name in the register of protected designations of origin and protected geographical indications [Pan de Alfacar (PGI)]**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Spain's application to register the name 'Pan de Alfacar' was published in the *Official Journal of the European Union* ⁽²⁾.

- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Pan de Alfacar' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 5 November 2013.

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ C 70, 9.3.2013, p. 31.

ANNEX

Agricultural products and foodstuffs listed in Annex I(l) to Regulation (EU) No 1151/2012:

Class 2.4. Bread, pastry, cakes, confectionery, biscuits and other baker's wares

SPAIN

Pan de Alfacar (PGI)

COMMISSION IMPLEMENTING REGULATION (EU) No 1113/2013

of 7 November 2013

concerning the authorisation of preparations of *Lactobacillus plantarum* NCIMB 40027, *Lactobacillus buchneri* DSM 22501, *Lactobacillus buchneri* NCIMB 40788/CNCM I-4323, *Lactobacillus buchneri* LN 40177/ATCC PTA-6138, and *Lactobacillus buchneri* LN 4637/ATCC PTA-2494 as feed additives for all animal species

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.

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

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation. Article 10(7) of Regulation (EC) No 1831/2003 in conjunction with Article 10(1) to (4) thereof sets out specific provisions for the evaluation of products used in the Union as silage additives at the date that Regulation became applicable.
- (2) In accordance with Article 10(1)(b) of Regulation (EC) No 1831/2003, the preparations of *Lactobacillus plantarum* NCIMB 40027, *Lactobacillus buchneri* DSM 22501, *Lactobacillus buchneri* NCIMB 40788/CNCM I-4323, *Lactobacillus buchneri* LN 40177/ATCC PTA-6138, and *Lactobacillus buchneri* LN 4637/ATCC PTA-2494 were entered in the Register of Feed Additives as existing products belonging to the functional group of silage additives, for all animal species.
- (3) In accordance with Article 10(2) of Regulation (EC) No 1831/2003 in conjunction with Article 7 of that Regulation, applications were submitted for the authorisation of those preparations as feed additives for all animal species, requesting those additives to be classified in the category 'technological additives' and in the functional group 'silage additives'. Those applications were

- (4) The European Food Safety Authority (the Authority) concluded in its opinions of 12 March 2013⁽²⁾ and 16 April 2013⁽³⁾ that, under the proposed conditions of use, the preparations concerned do not have an adverse effect on animal health, human health or the environment. The Authority also concluded that the preparation of *Lactobacillus plantarum* NCIMB 40027 has the potential to improve the production of silage by increasing lactic acid content and the preservation of dry matter by reducing pH and protein degradation, in easy and moderately difficult to ensile forage at 1×10^8 CFU/kg of fresh material and at 1×10^9 CFU/kg of fresh material in difficult to ensile forage for all species. It also concluded that the preparation of *Lactobacillus buchneri* DSM 22501 has the potential to improve the production of silage by reducing pH and ammonia nitrogen and by the preservation of dry matter, from easy, moderately difficult and difficult to ensile forage; the preparation of *Lactobacillus buchneri* NCIMB 40788/CNCM I-4323 has the potential to improve the aerobic stability of easy, moderately difficult and difficult to ensile forage and the preparations of *Lactobacillus buchneri* LN 40177/ATCC PTA-6138, and of *Lactobacillus buchneri* LN 4637/ATCC PTA-2494 have the potential to improve the aerobic stability of easy to ensile forage for all animal species. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the methods of analysis of the feed additives in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.
- (5) The assessment of the preparations concerned shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of those preparations should be authorised as specified in the Annex to this Regulation.
- (6) Since safety reasons do not require the immediate application of the modifications to the conditions of authorisation, it is appropriate to allow a transitional period for interested parties to prepare themselves to meet the new requirements resulting from the authorisation.

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ EFSA Journal 2013; 11(4):3168.

⁽³⁾ EFSA Journal 2013; 11(5):3205.

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

HAS ADOPTED THIS REGULATION:

Article 1

Authorisation

The preparations specified in the Annex belonging to the additive category 'technological additives' and to the functional group 'silage additives', are authorised as additives in animal nutrition, subject to the conditions laid down in that Annex.

Article 2

Transitional measures

The preparations specified in the Annex and feed containing them, which are produced and labelled before 28 May 2014 in accordance with the rules applicable before 28 November 2013 may continue to be placed on the market and used until the existing stocks are exhausted.

Article 3

Entry into force

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, 7 November 2013.

For the Commission
The President
José Manuel BARROSO

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of fresh material			
Category of technological additives. Functional group: silage additives									
1k20743	—	<i>Lactobacillus plantarum</i> NCIMB 40027	<i>Additive composition</i> Preparation of <i>Lactobacillus plantarum</i> NCIMB 40027 containing a minimum of 1 × 10 ¹¹ CFU/g additive. <i>Characterisation of the active substance</i> Viable cells of <i>Lactobacillus plantarum</i> NCIMB 40027. <i>Analytical method</i> ⁽¹⁾ Enumeration in the feed additive: spread plate method (EN 15787). Identification: Pulsed Field Gel Electrophoresis (PFGE).	All animal species	—	—	—	1. In the directions for use of the additive and premixture, indicate the storage conditions. 2. Minimum content of the additive when used without combination with other micro-organisms as silage additives: — 1 × 10⁸ CFU/kg fresh material in easy and moderately difficult to ensile material ⁽²⁾. — 1 × 10⁹ CFU/kg fresh material in difficult to ensile material ⁽³⁾. 3. For safety: it is recommended to use breathing protection and gloves during handling.	28 November 2023
1k20738		<i>Lactobacillus buchneri</i> DSM 22501	<i>Additive composition</i> Preparation of <i>Lactobacillus buchneri</i> DSM 22501 containing a minimum of 5 × 10 ¹⁰ CFU/g additive.	All animal species				1. In the directions for use of the additive and premixture, indicate the storage temperature and storage life. 2. Minimum content of the additive when it is not used in combination with other micro-organisms as silage additive: 1 × 10⁸ CFU/kg of fresh material. 3. For safety: it is recommended to use breathing protection and gloves during handling.	

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of fresh material			
			<i>Characterisation of the active substance</i> Viable cells of <i>Lactobacillus buchneri</i> DSM 22501. <i>Analytical method</i> ⁽¹⁾ Enumeration in the feed additive: spread plate method (EN 15787). Identification: Pulsed Field Gel Electrophoresis (PFGE).						
1k20739	—	<i>Lactobacillus buchneri</i> NCIMB 40788/CNCM I-4323	<i>Additive composition</i> Preparation of <i>Lactobacillus buchneri</i> NCIMB 40788/CNCM I-4323 containing a minimum of 3×10^9 CFU/g additive. <i>Characterisation of the active substance</i> Viable cells of <i>Lactobacillus buchneri</i> NCIMB 40788/CNCM I-4323. <i>Analytical method</i> ⁽¹⁾ Enumeration in the feed additive: spread plate method (EN 15787). Identification: Pulsed Field Gel Electrophoresis (PFGE).	All animal species	—	—	—	1. In the directions for use of the additive and premixture, indicate the storage temperature and storage life. 2. Minimum content of the additive when used without combination with other micro-organisms as silage additives: 1×10^8 CFU/kg fresh material. 3. For safety: it is recommended to use breathing protection and gloves during handling.	28 November 2023
1k20740	—	<i>Lactobacillus buchneri</i> LN 40177/ATCC PTA-6138	<i>Additive composition</i> Preparation of <i>Lactobacillus buchneri</i> LN 40177/ATCC PTA-6138 containing a minimum of 1×10^{10} CFU/g additive.	All animal species	—	—	—	1. In the directions for use of the additive and premixture, indicate the storage temperature and storage life. 2. Minimum content of the additive when used without combination with other micro-organisms as silage additives: 1×10^8 CFU/kg fresh material. 3. The additive shall be used in easy to ensile material ⁽⁴⁾ .	28 November 2023

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of fresh material			
			<i>Characterisation of the active substance</i> Viable cells of <i>Lactobacillus buchneri</i> LN 40177/ATCC PTA-6138. <i>Analytical method</i> ⁽¹⁾ Enumeration in the feed additive: spread plate method (EN 15787). Identification: Pulsed Field Gel Electrophoresis (PFGE).					4. For safety: it is recommended to use breathing protection and gloves during handling.	
1k20741	—	<i>Lactobacillus buchneri</i> LN 4637/ATCC PTA-2494	<i>Additive composition</i> Preparation of <i>Lactobacillus buchneri</i> LN 4637/ATCC PTA-2494 containing a minimum of 1 × 10 ¹⁰ CFU/g additive. <i>Characterisation of the active substance</i> Viable cells of <i>Lactobacillus buchneri</i> LN 4637/ATCC PTA-2494. <i>Analytical method</i> ⁽¹⁾ Enumeration in the feed additive: spread plate method (EN 15787). Identification: Pulsed Field Gel Electrophoresis (PFGE).	All animal species	—	—	—	1. In the directions for use of the additive and premixture, indicate the storage temperature and storage life. 2. Minimum content of the additive when used without combination with other micro-organisms as silage additives: 1 × 10 ⁸ CFU/kg fresh material. 3. The additive shall be used in easy to ensile material ⁽⁴⁾ 4. For safety: it is recommended to use breathing protection and gloves during handling.	28 November 2023

⁽¹⁾ Details of the analytical methods are available at the following address of the Reference Laboratory: http://irmm.jrc.ec.europa.eu/EURLs/EURL_feed_additives/Pages/index.aspx

⁽²⁾ Easy to ensile forage: > 3 % soluble carbohydrates in fresh material. Moderately difficult to ensile forage: 1,5-3,0 % soluble carbohydrates in the fresh material. Regulation (EC) No 429/2008 (OJ L 133, 22.5.2008, p. 1).

⁽³⁾ Difficult to ensile forage: < 1,5 % soluble carbohydrates in the fresh material. Regulation (EC) No 429/2008 (OJ L 133, 22.5.2008, p. 1).

⁽⁴⁾ Easy to ensile forage: > 3 % soluble carbohydrates in fresh material. Regulation (EC) No 429/2008 (OJ L 133, 22.5.2008, p. 1).

COMMISSION REGULATION (EU) No 1114/2013**of 7 November 2013****amending Regulation (EC) No 1857/2006 as regards its period of application**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid ⁽¹⁾,

Having published a draft of this Regulation ⁽²⁾,

After consulting the Advisory Committee on State Aid,

Whereas:

- (1) Commission Regulation (EC) No 1857/2006 ⁽³⁾ will expire on 31 December 2013.
- (2) In its Communication on EU State Aid Modernisation ⁽⁴⁾ of 8 May 2012 the Commission launched a wide review of State aid rules. In the context of that review, Regulation (EC) No 994/98 has already been amended by Council Regulation (EU) No 733/2013 ⁽⁵⁾. A number of other legislative instruments relevant for the assessment of State aid in the agricultural sector are still in the process of revision, in particular the future rules applicable to rural development, the new agricultural State aid guidelines, and the new general block exemption Regulation replacing Commission Regulation (EC) No 800/2008 ⁽⁶⁾. It will not be possible to finalise the adaptation of those instruments before Regulation (EC) No 1857/2006 expires or they will not be fully applicable on 1 January 2014. In order to ensure a consistent approach across all State aid instruments, it is therefore appropriate to extend the period of application of Regulation (EC) No 1857/2006 until 30 June 2014.

⁽¹⁾ OJ L 142, 14.5.1998, p. 1.

⁽²⁾ OJ C 227, 6.8.2013, p. 1.

⁽³⁾ Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001 (OJ L 358, 16.12.2006, p. 3).

⁽⁴⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU State Aid Modernisation (SAM), 8.5.2012, COM(2012) 209 final.

⁽⁵⁾ Council Regulation (EU) No 733/2013 of 22 July 2013 amending Regulation (EC) No 994/98 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid (OJ L 204, 31.7.2013, p. 11).

⁽⁶⁾ Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJ L 214, 9.8.2008, p. 3).

- (3) Regulation (EC) No 1857/2006 should therefore be amended accordingly.

- (4) It is important to ensure continuity in implementing the rural development policy and a smooth passage from one programming period to the following. A period of overlapping application of rural development programmes and the corresponding legal provisions of the 2007-13 programming period and those of the programming period following it is inevitable. In this context, the Member States may, under certain conditions, continue to make commitments under Council Regulation (EC) No 1698/2005 ⁽⁷⁾ after the end of the programming period 2007-13 until 31 December 2015. Consequently, it is appropriate to clarify for the purposes of legal certainty that, where Regulation (EC) No 1857/2006 refers to the criteria of Regulation (EC) No 1698/2005, those criteria should continue to be applicable for the assessment of State aid under Regulation (EC) No 1857/2006 during its extended period of application even after the entry into force of a new Regulation replacing Regulation (EC) No 1698/2005.

- (5) In the light of the extension of the period of application of Regulation (EC) No 1857/2006, some Member States may wish to prolong measures on which summary information has been provided in accordance with Article 20 of that Regulation. In order to reduce the administrative burden, it is appropriate to lay down that summary information regarding the prolongation of those measures is to be deemed to have been communicated to the Commission, provided that no substantive amendment is made to the measures concerned.

- (6) This Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union* in order to allow for the extension of the period of application of Regulation (EC) No 1857/2006 before it expires,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 23(1) of Regulation (EC) No 1857/2006, the second subparagraph is replaced by the following:

‘It shall apply from 1 January 2007 until 30 June 2014’.

⁽⁷⁾ Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).

Article 2

Where, as a consequence of the amendment of Regulation (EC) No 1857/2006, a Member State wishes to prolong measures in respect of which summary information was submitted to the Commission in accordance with Article 20 of that Regulation, summary information regarding the prolongation of those measures shall be deemed to have been communicated to the Commission, provided that no substantive amendment is made to the measures concerned.

Article 3

Where Regulation (EC) No 1857/2006 refers to the criteria of Regulation (EC) No 1698/2005, those criteria shall continue to be applicable for the assessment of State aid under Regulation (EC) No 1857/2006 during its extended period of application even after the entry into force of a new Regulation replacing Regulation (EC) No 1698/2005.

Article 4

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

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

Done at Brussels, 7 November 2013.

For the Commission

The President

José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 1115/2013**of 7 November 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, 7 November 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
0702 00 00	AL	40,0
	MA	42,5
	MK	39,0
	ZZ	40,5
0707 00 05	AL	57,9
	EG	177,3
	MK	61,5
	TR	131,5
	ZZ	107,1
0709 93 10	AL	48,7
	MA	85,3
	TR	155,0
	ZZ	96,3
0805 20 10	AU	136,9
	MA	75,8
	ZA	148,9
	ZZ	120,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	PE	125,0
	SZ	56,1
	TR	72,2
	UY	92,8
	ZA	131,6
	ZZ	95,5
0805 50 10	TR	77,6
	ZA	54,2
	ZZ	65,9
0806 10 10	BR	245,4
	PE	271,8
	TR	165,7
	US	362,2
	ZZ	261,3
0808 10 80	BA	64,2
	CL	210,3
	NZ	143,5
	US	135,0
	ZA	152,2
0808 30 90	ZZ	141,0
	CN	65,8
	TR	114,2
	ZZ	90,0

⁽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

COMMISSION IMPLEMENTING DECISION

of 7 November 2013

on setting up the European Advanced Translational Research Infrastructure in Medicine as a European Research Infrastructure Consortium (EATRIS ERIC)

(2013/640/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) ⁽¹⁾, and in particular point (a) of Article 6(1) thereof,

Whereas:

- (1) The Czech Republic, the Kingdom of Denmark, the Republic of Estonia, the Italian Republic, the Kingdom of the Netherlands and the Republic of Finland requested the Commission to set up the European Advanced Translational Research Infrastructure in Medicine as a European Research Infrastructure Consortium (EATRIS ERIC). The Kingdom of Spain and the Republic of France will participate initially in EATRIS ERIC as an Observer.
- (2) The Kingdom of the Netherlands has been chosen by the Czech Republic, the Kingdom of Denmark, the Republic of Estonia, the Kingdom of Spain, the Republic of France, the Italian Republic and the Republic of Finland as the Host Member State of EATRIS ERIC.
- (3) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 20 of Regulation (EC) No 723/2009,

HAS ADOPTED THIS DECISION:

Article 1

1. A European Research Infrastructure Consortium for the European Advanced Translational Research Infrastructure in Medicine named EATRIS ERIC is hereby established.

2. The statutes of EATRIS ERIC are set out in the Annex. These Statutes shall be kept up to date and made publicly available on the website of EATRIS ERIC and at its statutory seat.

3. The essential elements of the EATRIS ERIC Statutes for which amendments shall require approval by the Commission in accordance with Article 11(1) of Regulation (EC) No 723/2009 are provided for in Articles 1, 2, 18, 20, 21, 22, 23, 24, 25, 28 and 29.

Article 2

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

Done at Brussels, 7 November 2013.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 206, 8.8.2009, p. 1.

ANNEX

STATUTES OF EATRIS ERIC

THE MEMBERS,

while recognising the important role for the national centres and their translational research capacities as organised through the EATRIS ERIC infrastructure;

Having the aim to improve translational biomedical research by developing a European advanced translational research infrastructure consisting of key preclinical and clinical facilities and translational expertise necessary to support the development of new preventive, diagnostic and therapeutic strategies of biomedical research and development for providing people with better healthcare;

Having the aim to provide access to the European advanced translational research infrastructure with the objective to realise a significant impact on healthcare and make a significant contribution to the advancement of the tools and technologies that drive translational science;

Recognising and elaborating on the results of the EATRIS Preparatory Phase project, funded by the European Commission and the progress made during the Transition Phase of EATRIS;

Deciding to request the European Commission to establish the European Advanced Translational Research Infrastructure in Medicine European Research Infrastructure Consortium (EATRIS ERIC) — as an outcome of the Transition Phase of EATRIS;

HAVE THEREFORE AGREED UPON THE FOLLOWING PROVISIONS:

CHAPTER I

GENERAL PROVISIONS

*Article 1***Name, seat, and working language**

1. There shall be a distributed European Research Infrastructure called 'European Advanced Translational Research Infrastructure in Medicine', hereinafter referred to as 'EATRIS'.
2. The name of the European Research Infrastructure Consortium (ERIC) — European Advanced Translational Research Infrastructure in Medicine shall be 'EATRIS ERIC'.
3. EATRIS ERIC shall have its statutory seat in Amsterdam, the Netherlands.
4. The working language of EATRIS ERIC shall be English.

*Article 2***Tasks and activities**

1. EATRIS ERIC shall advance research in translational medicine.
2. EATRIS ERIC shall be committed to organising and facilitating the governance and coordination that is required to establish and operate the EATRIS research infrastructure.
3. The EATRIS research infrastructure shall connect leading European research institutes that dedicate part of their research and development capacities to EATRIS ERIC sharing content, tools and knowledge related to research in translational medicine and in particular on the following:
 - (a) biologics and advanced therapies, such as gene and cell therapies and regenerative medicine;
 - (b) biomarkers;
 - (c) small molecules;
 - (d) molecular imaging and tracers;
 - (e) vaccines.

CHAPTER II

MEMBERS*Article 3***Membership and representation**

1. EATRIS ERIC shall have at least three Member States as Member, only States and intergovernmental organisations may become Member and have voting rights.
2. Any Member shall appoint one or two representatives in the Board of Governors. Two representatives shall together hold one vote.
3. The Members and their representatives are listed in Appendix 1. The States that submitted the application requesting the setting up of EATRIS ERIC to the European Commission are hereinafter referred to as Founding Members.

*Article 4***Admission of new members**

1. Applicants for Membership shall submit a written application to the Chairperson of the Board of Governors describing their financial contribution and other contributions to EATRIS ERIC tasks and activities and how they will fulfil their obligations.
2. The admission of new Members shall be subject to the approval of the Board of Governors.

*Article 5***Withdrawal of a member and termination of membership**

1. No Member may withdraw within the first five years of the establishment of EATRIS ERIC unless the Membership has been entered into for a specified shorter period.
2. After the first five years of the establishment of EATRIS ERIC a Member may withdraw provided a request is submitted to this effect 12 months in advance. A withdrawal shall only become effective at the end of a financial year and after the withdrawing Member has fulfilled its obligations.
3. By derogation from paragraph 1 of this Article, a Member may withdraw during the first five years if the Board of Governors decide to raise the thresholds of the annual financial contribution as specified in points (e) and (f) of Appendix 2. Member wishing to withdraw shall request withdrawal within six months of the adoption of the proposal to raise the annual financial contribution. The withdrawal shall become effective at the end of the financial year on the condition that the withdrawing Member has fulfilled its obligations.
4. The Board of Governors shall have the power to terminate a Membership in the following cases:

- (a) the Member is in serious breach of one or more of its obligations under these Statutes;
- (b) the Member has failed to rectify such breach within a period of six months of notification thereof.

The Member shall be invited by the Board of Governors to present its position on the proposed decision of termination before any decision may be adopted.

5. Members that withdraw or have their Membership terminated shall neither have right to restitution or reimbursement of any contributions made, nor the right to lay any claim to the assets of EATRIS ERIC.

*Article 6***Rights and obligations of Members**

1. Rights of Members shall include:
 - (a) the right to attend and vote at the Board of Governors;
 - (b) the right to participate in the development of strategies, policies and decision-making procedures concerning EATRIS ERIC;

- (c) the right of its research community to participate in EATRIS ERIC events;
 - (d) the right of its research community to have access to and to receive support from EATRIS ERIC.
2. Each Member shall:
- (a) pay an annual financial contribution as decided by the Board of Governors;
 - (b) empower its representatives with the full authority to vote by single vote on all issues raised during a meeting of the Board of Governors;
 - (c) create a national centre or infrastructure consortium for the purpose of fulfilling the obligations arising from these Statutes;
 - (d) appoint one National Director to represent it on the Board of National Directors;
 - (e) provide the necessary technical infrastructure to make access possible;
 - (f) promote the uptake of EATRIS ERIC services among researchers in its own country and gather user feedback and requirements;
 - (g) support centres in its own country that wish to join the national infrastructure of a Member State participating in the EATRIS ERIC infrastructure.
3. Contributions other than the annual financial contribution may be made by Members individually or jointly in cooperation with other Members, Observers or third parties. Such contributions, in cash or in kind, shall be subject to approval by the Board of Governors.
4. EATRIS ERIC shall enter into an agreement with the national centres in order to establish the terms and conditions under which the national centres may join the EATRIS ERIC infrastructure and commit to the tasks and activities set out in Article 2. The National Director shall use its best efforts to coordinate the interaction of its national centres with the EATRIS ERIC.

CHAPTER III

OBSERVERS

Article 7

Observer status

1. States and intergovernmental organisations which are willing to contribute to EATRIS ERIC but are not yet in a position to join as Members may apply for Observer status.
2. Observers shall be admitted for a maximum of three years, unless another term is decided by the Board of Governors.
3. Applications for Observer status shall be made in writing to the Chairperson of the Board of Governors and shall set out how the applicant intends to contribute to EATRIS ERIC tasks and activities.
4. The admission of Observers shall be subject to the approval of the Board of Governors.

Article 8

Withdrawal of an observer and termination of observer status

1. Observers may withdraw at the end of a financial year provided they have submitted a request thereto six months in advance.
2. Financial and other obligations must be fulfilled before a withdrawal by an Observer can take effect.
3. The Board of Governors shall have the power to terminate the Observer status of an Observer in the following cases:
 - (a) the Observer is in serious breach of one or more of its obligations under these Statutes;
 - (b) the Observer has failed to rectify such breach within a period of six months of notification thereof.

The Observer shall be invited by the Board of Governors to present its position on the proposed decision of termination before any decision may be adopted.

4. Observers that withdraw or have their Observer status terminated shall have neither the right to restitution or reimbursement of any contribution made, nor the right to lay any claim to the assets of EATRIS ERIC.

*Article 9***Rights and obligations of an Observer**

1. Rights of Observers shall include:
 - (a) the right to attend the meeting of the Board of Governors without a right to vote;
 - (b) the right of their research community to participate in EATRIS ERIC events;
 - (c) the right of their research community to access EATRIS ERIC infrastructure and to receive support from EATRIS ERIC.
2. Each Observer shall:
 - (a) appoint one or two representatives in the Board of Governors;
 - (b) pay the annual financial contribution as decided by the Board of Governors;
 - (c) set out its contribution to the EATRIS ERIC tasks and activities set out in Article 2.
3. Contributions other than the annual financial contribution to EATRIS ERIC may be provided by Observers individually or jointly in cooperation with other Members, Observers or third parties. Such contributions, in cash or in kind, shall be approved by the Board of Governors.
4. An Observer shall empower its representative(s) to fulfil the obligations referred to in points (b) and (c) of Article 9(2).
5. EATRIS ERIC shall enter into an Observer Agreement with the Observer in order to establish the terms and conditions under which the obligations are to be fulfilled or the contribution is to be made.

CHAPTER IV

GOVERNANCE OF EATRIS ERIC*Article 10***Governance and management**

The governance structure of EATRIS ERIC shall comprise the following bodies:

- (a) the Board of Governors;
- (b) the Executive Board.

*Article 11***Board of Governors**

1. The Board of Governors shall be the highest and ultimate governing body of EATRIS ERIC with full decision-making power. The Board of Governors shall meet at least once a year and shall be responsible in accordance with the provisions of these Statutes for the overall direction and supervision of EATRIS ERIC.
2. Member States shall jointly hold the majority of the votes.
3. The Board of Governors shall elect amongst its members a Chairperson and a deputy for a two-year term. The Chairperson and deputy may be re-elected. Unless decided otherwise, the Chairperson shall chair all meetings of the Board of Governors and shall be assisted by the deputy.
4. The Board of Governors shall use their best efforts to achieve consensus on all decisions. Failing consensus, a simple majority of the votes cast shall suffice to pass a decision, except for decisions referred to in paragraphs 5, 6 and 7.
5. The Board of Governors shall decide with a majority of at least two-thirds of the votes of the Members on decisions to:
 - (a) adopt or change the strategies for the development of EATRIS ERIC;
 - (b) appoint, suspend or dismiss the Finance Director and the Scientific Director after consultation with the Board of National Directors;
 - (c) establish Subsidiary Bodies in addition to the Permanent Bodies;
 - (d) adopt or change Standing Orders which describe the mandate and specify the activities of the Executive Board and of the Subsidiary Bodies;
 - (e) adopt and amend the annual work programme and the annual budget.

6. Decisions of the Board of Governors to terminate a Membership or Observer status shall require a majority of at least three quarters of the votes of the Members.

7. A Member whose Membership termination is to be decided upon shall have no vote in that decision.

8. The Board of Governors shall decide with unanimity of the Members, not counting any abstentions, on decisions to:

(a) amend the statutes, except for Appendix 1;

(b) wind up EATRIS ERIC.

Unless otherwise agreed, Members shall be informed of the exact wording of amendments to the Statutes and to Appendix 2 at least three months before those amendments are put to vote.

9. The Board of Governors shall meet and decide validly only if a quorum of two thirds of all the Members of EATRIS ERIC are present or represented.

10. The Board of Governors shall adopt Rules of Procedure for implementing the provisions of the Statutes.

Article 12

Executive Board

1. The Executive Board shall be responsible for the implementation of EATRIS ERIC and for supporting the Board of Governors. The Executive Board shall be accountable solely to the Board of Governors.

2. The Executive Board shall perform its duties as determined by the Board of Governors and shall prepare its own internal procedures of organisation, meetings and the way the Finance and Scientific Director shall work together in the Rules of Procedure, to be submitted for approval by the Board of Governors.

3. The Executive Board shall consist of the Finance Director and the Scientific Director.

4. The Finance Director shall be the legal representative of EATRIS ERIC, shall represent EATRIS ERIC in any litigation and shall be responsible for the (day-to-day) operational management of EATRIS ERIC.

5. The Scientific Director of EATRIS ERIC shall be responsible for the strategic scientific development and all operational scientific matters of EATRIS ERIC.

6. The Directors of the Executive Board may serve for a term of up to five years to be decided by the Board of Governors. After the initial term the Board of Governors shall decide on any extension. The procedures for the selection and appointment of Directors shall be laid down in Rules of Procedure adopted by the Board of Governors.

Article 13

EATRIS ERIC coordination and support office

1. EATRIS ERIC Coordination and Support Office shall be the central management and daily operations office of EATRIS ERIC and shall assist the Board of Governors. It shall be managed and its staff shall be recruited by the Finance Director in consultation with the Scientific Director.

2. The EATRIS Coordination and Support Office shall be accommodated at the premises of EATRIS ERIC located at its statutory seat.

CHAPTER V

SUBSIDIARY BODIES

Article 14

Subsidiary bodies

1. EATRIS ERIC shall have the following Subsidiary Bodies:

(a) the Board of National Directors;

(b) the Scientific Advisory Board.

2. The Board of Governors may establish other Subsidiary Bodies if deemed necessary for the functioning of EATRIS ERIC.

*Article 15***Board of National Directors**

1. The Board of National Directors shall oversee the coordination of the implementation of the strategies approved by the Board of Governors. The Board of National Directors shall be responsible for all national scientific activities related to EATRIS ERIC and shall maintain coherence and consistency across EATRIS ERIC and collaboration between the Members.
2. The Board of National Directors shall consist of the National Directors appointed by the Members.
3. The members of the Board of National Directors shall elect amongst its members a Chairperson and a deputy for a two-year term with the possibility of re-election in conformity with the procedures laid down in Rules of Procedure.
4. The Board of National Directors shall propose the Rules of Procedure and adopt them after approval by the Board of Governors for their internal operational procedures.
5. The Board of National Directors shall perform the activities as determined by the Board of Governors in Standing Orders.
6. The Board of National Directors shall select the members of the Scientific Advisory Board subject to approval by the Board of Governors.

*Article 16***Scientific Advisory Board**

1. The Scientific Advisory Board shall consist of independent and internationally recognised scientists involved in biomedical translational research acting on their personal title and strategic experience.
2. The Scientific Advisory Board shall offer advice on request to the Board of Governors and may be consulted by the Executive Board and the Board of National Directors on all scientifically and technologically relevant matters including questions regarding the EATRIS ERIC research agenda, scientific strategies, ethical issues and the annual work programme.

CHAPTER VI

FINANCE AND REPORTING*Article 17***Budgetary principles and accounts**

1. The financial year of EATRIS ERIC shall begin on 1 January and shall end on 31 December of each year.
2. EATRIS ERIC funds may be used solely for purposes as laid down in these Statutes.
3. All items of revenue and expenditure of EATRIS ERIC shall be included in estimates to be drawn up for each financial year and shall be recorded in the annual budget.
4. The accounts of EATRIS ERIC shall be accompanied by an audited report on the budgetary and financial management of the financial year. EATRIS ERIC shall produce an annual activity report, describing, in particular, the scientific, operational and financial aspects of its activities. The report shall be approved by the Board of Governors and transmitted to the European Commission and relevant public authorities within six months of the end of the corresponding financial year. This report shall be made publicly available in full or in part.
5. EATRIS ERIC shall be subject to the requirements of the applicable law and regulations as regards preparation, filing, auditing and publication of accounts.
6. EATRIS ERIC shall ensure that all appropriations shall be used in accordance with the principles of sound financial management.

*Article 18***Liability**

1. EATRIS ERIC shall be liable for its debts.
2. The Members' financial liability towards ERIC's debts shall be limited to each individual Member's annual financial contribution.
3. EATRIS ERIC shall take appropriate insurance to cover the risks of liability specific to the construction and operation of EATRIS ERIC.

CHAPTER VII

POLICIES*Article 19***Agreements with third parties**

In cases where EATRIS ERIC deems it beneficial, it can enter into agreements with third parties.

*Article 20***Intellectual property rights policy**

1. The term intellectual property shall mean intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organization signed on 14 July 1967.
2. The Board of National Directors shall provide for common principles and policies for Intellectual Property as laid down in Rules of Procedure. Those common principles and policies shall be approved by the Board of Governors.
3. The Board of National Directors may recommend agreements with the national centres and infrastructure consortia within the EATRIS research infrastructure in order to ensure that these entities as well as third parties have access to the scientific knowledge of the EATRIS research infrastructure.

*Article 21***Access policy**

1. EATRIS ERIC shall ensure as a general rule open access to services and infrastructures supporting and promoting excellence in translational research as well as a culture of 'best practices' through training activities.
2. EATRIS ERIC shall provide guidance for users of EATRIS infrastructure to best ensure that research which has been undertaken using the resources of the EATRIS infrastructure recognises and respects compliance with any property, personal privacy, ethical and data owner's protection rights as well as secrecy and confidentiality obligations as defined in Rules of Procedure, further ensuring that users comply with access terms and conditions, security arrangements for the internal storage and handling of (bio) materials and handling of information of research institutions participating in EATRIS infrastructure.
3. The criteria and procedures that provide or restrict access to EATRIS ERIC infrastructure data and tools shall be defined in Rules of Procedure and decided by the Board of Governors after advice from the Board of National Directors and the Scientific Advisory Board.

*Article 22***Scientific evaluation policy**

1. EATRIS ERIC shall provide access to its translational infrastructure to projects that have the most potential for making a significant impact on health care or a significant contribution to the advancement of the tools and technologies that drive translational science.
2. The scientific evaluation process of projects requesting access to the EATRIS ERIC infrastructure shall consider scientific merit, unmet medical need, eligibility and translational potential, and shall be based on transparency, fairness and impartiality. That process shall be approved by the Board of Governors and laid down in Rules of Procedure.

3. The scientific evaluation of projects within the EATRIS ERIC infrastructure shall consider scientific merit, unmet medical need and translational potential based on transparency, fairness and impartiality and shall be further elaborated by the Board of Governors and laid down in Rules of Procedure.

Article 23

Dissemination policy

1. EATRIS ERIC shall take all appropriate action to promote the infrastructure and its use in research and education.
2. EATRIS ERIC shall promote the dissemination and sharing of results obtained by national and international research activities.
3. Without prejudice to any property rights EATRIS ERIC shall request its users to make their research results publicly available and to make results available through EATRIS ERIC.
4. The dissemination policy shall identify the various target groups, and EATRIS ERIC shall use several channels to reach the target audiences, such as web portals, newsletters, workshops, presence at conferences, articles in journals and daily newspapers.

Article 24

Employment policy

EATRIS ERIC shall endeavour to select the best candidate on a non-discriminatory basis, regardless of background, nationality, religion or gender, reflecting contributions made by the Members.

Article 25

Procurement policy

1. EATRIS ERIC shall treat procurement candidates and tenderers equally and without discrimination, regardless of whether or not they are based within the European Union. The EATRIS ERIC procurement policy shall respect the principles of transparency, non-discrimination and competition. The Board of Governors shall adopt Rules of Procedure establishing detailed rules on procurement procedures and criteria.
2. The Executive Board shall be responsible for all EATRIS ERIC procurement. All tenders shall be published on the EATRIS ERIC website and in the Members' and Observers' territories. For procurement amounts higher than EUR 200 000 EATRIS ERIC shall follow the principles of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 concerning the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts ⁽¹⁾. The decision to award procurement shall be published and include a full justification.

Article 26

Tax exemption

1. Tax exemptions based on Articles 143(1)(g) and 151(1)(b) of Council Directive 2006/112/EC ⁽²⁾ and in accordance with Articles 50 and 51 of Council Implementing Regulation (EU) No 282/2011 ⁽³⁾ shall be limited to the value added tax for such goods and services which are for official use by EATRIS ERIC, exceed the value of EUR 250, and are wholly paid for and procured by EATRIS ERIC. Procurement by individual Members shall not benefit from these exemptions. Without prejudice to paragraphs 2 and 3 no further limits shall apply.
2. Tax exemptions shall apply to non-economic activities, not to economic activities.
3. Tax exemptions shall be applied to goods and services for the scientific, technical and administrative operations undertaken by EATRIS ERIC in line with its principal tasks. This shall also include expenses for conferences, workshops and meetings directly linked to the official activities of EATRIS ERIC. However travel and accommodation expenses shall not be covered by tax exemptions.

⁽¹⁾ OJ L 134, 30.4.2004, p. 114.

⁽²⁾ OJ L 347, 11.12.2006, p. 1.

⁽³⁾ OJ L 77, 23.3.2011, p. 1.

*Article 27***Data policy**

The Executive Board shall submit to the Board of Governors for approval Rules of Procedure for data policy in relation to users of EATRIS ERIC infrastructure, the national centres and third parties such as universities, research institutes and industry, with due respect for existing licences.

CHAPTER VIII

DURATION, WINDING UP, DISPUTES, SET UP PROVISIONS*Article 28***Duration**

The duration of EATRIS ERIC shall be indefinite.

*Article 29***Winding up**

1. The winding up of EATRIS ERIC shall be decided by the Board of Governors.
2. The European Commission shall be notified within 10 calendar days of the decision to wind up EATRIS ERIC.
3. Assets remaining after payment of EATRIS ERIC debts shall be apportioned among the Members in proportion to their accumulated annual contribution to EATRIS ERIC.
4. The European Commission shall be notified within 10 calendar days of the closure of the winding up procedure.

*Article 30***Language and availability of the Statutes**

1. These Statutes shall be kept up to date and made publicly available on the website of the ERIC and at its statutory seat.
2. These Statutes shall be deemed authentic in all official language versions of the Members listed in Appendix 1. These Statutes shall also be deemed authentic in the official language versions of the Members States not listed in Appendix 1. No language version shall prevail.
3. When language versions are not provided for through the Official Journal in case of amendments to these Statutes that do not require a Commission Decision, they shall be provided by EATRIS ERIC Coordination and Support Office.

*Article 31***Set-up provisions**

1. A constitutional meeting of the Board of Governors shall be called by the host country as soon as possible but no later than within 45 calendar days after the entry into force of the decision of the European Commission setting up EATRIS ERIC. Without prejudice to paragraph 2 no decisions shall be taken by the Board of Governors before at least five Members have joined EATRIS ERIC.
 2. The host country shall notify the Founding Members of any specific urgent legal action that needs to be taken on behalf of EATRIS ERIC before the constitutional meeting is held. Unless a Founding Member objects within five working days of being notified, the legal action shall be carried out by a person duly authorised by the host state.
 3. As of the establishment of EATRIS ERIC, its bodies shall act in accordance with the Standing Orders and Rules of Procedure as approved by the EATRIS Governing Board during the EATRIS Transition Phase.
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*Appendix 1***List of members, observers, and the entities representing them**

Members	Representing entity
Czech Republic	Ministry of Education, Youth and Sports (MEYS)
Kingdom of Denmark	Danish Agency for Science, Technology and Innovation (DASTI)
Republic of Estonia	Ministry of Education and Research of the Republic of Estonia (MER EE)
Italian Republic	Istituto Superiore di Sanità (ISS)
Kingdom of the Netherlands	ZonMW
Republic of Finland	Ministry of Education and Culture (OKM)
Observers	Representing entity
Kingdom of Spain	Instituto de Salud 'Carlos III' (ISCIII)
French Republic	Commissariat à l'Energie Atomique et aux Energies Alternatives (CEA)

*Appendix 2***Annual financial contribution****Financial Commitment for the first five years**

For the initial five-year period after the establishment of EATRIS ERIC the principles for the financial commitment shall be as follows:

- (a) initial commitment for Founding Members is five years (no initial commitment for Observers);
 - (b) Founding Members can sign up for less than five years subject to a 25 % increase in the annual contribution; the excess shall be refunded if the Member completes the five years;
 - (c) the initial financial contribution for EATRIS ERIC year one is based on the agreed five-year budget excluding any uncertain income source (e.g. the income from user fees) and a minimum of five Founding Members;
 - (d) the Netherlands will pay an additional hosting contribution of EUR 500 000 in 2013, 2014 and 2015. After 2015 the Netherlands will pay an additional hosting contribution of EUR 50 000;
 - (e) no Founding Member that has made a five-year commitment will pay more than EUR 140 000 per year (maximum threshold);
 - (f) the minimum membership contribution will not be lower than EUR 50 000 per year regardless of the number of Members and regardless of any income generated by EATRIS ERIC (minimum threshold);
 - (g) the financial contribution for EATRIS ERIC year two is based on the agreed five-year budget minus the net result from income in EATRIS ERIC year one. The financial contribution for EATRIS ERIC year three is based on the agreed five-year budget minus the net result from income in EATRIS ERIC year two etc.;
 - (h) a new Member starts at the financial contribution level it would have paid as a Founding Member in EATRIS ERIC year one plus 25 %. After accession year one it pays the financial contribution set for EATRIS ERIC year two plus 25 % etc. If the new Member completes a five-year term, the excess is refunded;
 - (i) Founding Observers with institutes not participating in all activities of EATRIS and not providing services pay 25 % of the annual financial contribution of what they would have paid as Founding Members; a Founding Observer with institutes participating in all activities of EATRIS including providing services shall pay the same annual financial contribution as a Founding Member;
 - (j) a Founding Observer that pays 25 % of the annual financial contribution and that becomes a Member starts at the same level of financial contribution it would have paid as a Founding Member in EATRIS ERIC year one. After accession year one it pays the financial contribution set for EATRIS ERIC year two etc. If it completes a five-year term, the Observer financial contribution shall be refunded;
 - (k) a new Observer starts at 25 % of the financial contribution it would have paid as a Founding Member in EATRIS ERIC year one. In year two of its accession it pays 25 % of what it would have paid in EATRIS ERIC year two etc.;
 - (l) if a new Observer becomes a Member it pays the financial contribution it would have paid as a Founding Member in EATRIS ERIC year one; after accession year one it pays the financial contribution set for EATRIS ERIC year two etc.; if the new Member completes a five-year term, the Observer financial contribution shall be refunded;
 - (m) if new Members or Observers join or if an Observer becomes a Member the financial contribution for that year is recalculated for all Members and Observers;
 - (n) in all cases mentioned in points (a) to (m), the 25 % extra financial contribution shall be held in reserve.
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