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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.

The titles of all other acts are printed in bold type and preceded by an asterisk.

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[1] Text with relevance for the EEA and for Switzerland
[2] Text with EEA relevance

(Continued on inside back cover)

II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) No 1239/2010

of 20 December 2010

adjusting with effect from 1 July 2010 the remuneration and pensions of officials and other servants of the European Union and the correction coefficients applied thereto

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Protocol on the Privileges and Immunities of the European Union, and in particular Article 12 thereof,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 [1], and in particular Articles 63, 64, 65 and 82 of the Staff Regulations and Annexes VII, XI and XIII thereto, and Articles 20(1), 64, 92 and 132 of the Conditions of Employment of Other Servants,

Having regard to the proposal from the European Commission,

Whereas in order to guarantee that the purchasing power of Union officials and other servants develops in parallel with that of national civil servants in the Member States, the remuneration and pensions of officials and other servants of the European Union should be adjusted under the 2010 annual review,

HAS ADOPTED THIS REGULATION:

Article 1

With effect from 1 July 2010, the date '1 July 2009' in the second paragraph of Article 63 of the Staff Regulations shall be replaced by '1 July 2010'.

Article 2

With effect from 1 July 2010 the table of basic monthly salaries in Article 66 of the Staff Regulations applicable for the purposes of calculating remuneration and pensions shall be replaced by the following:

1.7.2010	STEP				
GRADE	1	2	3	4	5
16	16 919,04	17 630,00	18 370,84		
15	14 953,61	15 581,98	16 236,75	16 688,49	16 919,04
14	13 216,49	13 771,87	14 350,58	14 749,83	14 953,61
13	11 681,17	12 172,03	12 683,51	13 036,39	13 216,49
12	10 324,20	10 758,04	11 210,11	11 521,99	11 681,17
11	9 124,87	9 508,31	9 907,86	10 183,52	10 324,20
10	8 064,86	8 403,76	8 756,90	9 000,53	9 124,87
9	7 127,99	7 427,52	7 739,63	7 954,96	8 064,86
8	6 299,95	6 564,69	6 840,54	7 030,86	7 127,99
7	5 568,11	5 802,09	6 045,90	6 214,10	6 299,95
6	4 921,28	5 128,07	5 343,56	5 492,23	5 568,11
5	4 349,59	4 532,36	4 722,82	4 854,21	4 921,28

[1] OJ L 56, 4.3.1968, p. 1.

1.7.2010	STEP				
GRADE	1	2	3	4	5
4	3 844,31	4 005,85	4 174,18	4 290,31	4 349,59
3	3 397,73	3 540,50	3 689,28	3 791,92	3 844,31
2	3 003,02	3 129,21	3 260,71	3 351,42	3 397,73
1	2 654,17	2 765,70	2 881,92	2 962,10	3 003,02

Article 3

With effect from 1 July 2010, the correction coefficients applicable to the remuneration of officials and other servants under Article 64 of the Staff Regulations shall be as indicated in column 2 of the following table.

With effect from 1 January 2011, the correction coefficients applicable under Article 17(3) of Annex VII to the Staff Regulations to transfers by officials and other servants shall be as indicated in column 3 of the following table.

With effect from 1 July 2010, the correction coefficients applicable to pensions under Article 20(1) of Annex XIII to the Staff Regulations shall be as indicated in column 4 of the following table.

With effect from 16 May 2010, the correction coefficients applicable to the remuneration of officials and other servants under Article 64 of the Staff Regulations shall be as indicated in column 5 of the following table. The effective date for the annual adjustment for those places of employment shall be 16 May 2010.

1	2	3	4	5
Country/Place	Remuneration 1.7.2010	Transfer 1.1.2011	Pension 1.7.2010	Remuneration 16.5.2010
Bulgaria	62,7	59,3	100,0	
Czech Rep.	84,2	77,5	100,0	
Denmark	134,1	130,5	130,5	
Germany	94,8	96,5	100,0	
Bonn	94,7			
Karlsruhe	92,1			
Münich	103,7			
Estonia	75,6	76,6	100,0	
Irland	109,1	103,9	103,9	
Greece	94,8	94,3	100,0	
Spain	97,7	91,0	100,0	
France	116,1	107,6	107,6	
Italy	106,6	102,3	102,3	
Varese	92,3			
Cyprus	83,7	86,7	100,0	
Latvia	74,3	69,4	100,0	
Lithuania	72,5	68,8	100,0	
Hungary	79,2	68,6	100,0	
Malta	82,2	84,8	100,0	
Netherlands	104,1	98,0	100,0	
Austria	106,2	105,1	105,1	

1	2	3	4	5
Country/Place	Remuneration 1.7.2010	Transfer 1.1.2011	Pension 1.7.2010	Remuneration 16.5.2010
Poland	77,1	68,1	100,0	
Portugal	85,0	85,1	100,0	
Romania		59,1	100,0	69,5
Slovenia	89,6	84,4	100,0	
Slovakia	80,0	75,4	100,0	
Finland	119,4	112,4	112,4	
Sweden	118,6	112,6	112,6	
United Kingdom		108,4	108,4	134,4
Culham	104,5			

Article 4

With effect from 1 July 2010, the amount of the parental leave allowance referred to in the second and third paragraphs of Article 42a of the Staff Regulations shall be EUR 911,73, and shall be EUR 1 215,63 for single parents.

Article 5

With effect from 1 July 2010, the basic amount of the household allowance referred to in Article 1(1) of Annex VII to the Staff Regulations shall be EUR 170,52.

With effect from 1 July 2010, the amount of the dependent child allowance referred to in Article 2(1) of Annex VII to the Staff Regulations shall be EUR 372,61.

With effect from 1 July 2010, the amount of the education allowance referred to in Article 3(1) of Annex VII to the Staff Regulations shall be EUR 252,81.

With effect from 1 July 2010, the amount of the education allowance referred to in Article 3(2) of Annex VII to the Staff Regulations shall be EUR 91,02.

With effect from 1 July 2010, the minimum amount of the expatriation allowance referred to in Article 69 of the Staff Regulations and in the second subparagraph of Article 4(1) of Annex VII thereto shall be EUR 505,39.

With effect from 1 July 2010, the expatriation allowance referred to in Article 134 of the Conditions of Employment of Other Servants shall be EUR 363,31.

Article 6

With effect from 1 January 2011, the kilometric allowance referred to in Article 8(2) of Annex VII to the Staff Regulations shall be adjusted as follows:

EUR 0 for every km from	0 to 200 km
EUR 0,3790 for every km from	201 to 1 000 km
EUR 0,6316 for every km from	1 001 to 2 000 km
EUR 0,3790 for every km from	2 001 to 3 000 km
EUR 0,1262 for every km from	3 001 to 4 000 km
EUR 0,0609 for every km from	4 001 to 10 000 km
EUR 0 for every km over	10 000 km.

To the above kilometric allowance a flat-rate supplement shall be added, amounting to:

— EUR 189,48 if the distance by train between the place of employment and the place of origin is between 725 km and 1 450 km,

— EUR 378,93 if the distance by train between the place of employment and the place of origin is greater than 1 450 km.

Article 7

With effect from 1 July 2010, the daily subsistence allowance referred to in Article 10(1) of Annex VII to the Staff Regulations shall be:

— EUR 39,17 for an official who is entitled to the household allowance,

— EUR 31,58 for an official who is not entitled to the household allowance.

Article 8

With effect from 1 July 2010, the lower limit for the installation allowance referred to in Article 24(3) of the Conditions of Employment of Other Servants shall be:

— EUR 1 114,99 for a servant who is entitled to the household allowance,

— EUR 662,97 for a servant who is not entitled to the household allowance.

Article 9

With effect from 1 July 2010, for the unemployment allowance referred to in the second subparagraph of Article 28a(3) of the Conditions of Employment of Other Servants, the lower limit shall be EUR 1 337,19, the upper limit shall be EUR 2 674,39.

With effect from 1 July 2010, the standard allowance referred to in Article 28a(7) shall be EUR 1 215,63.

Article 10

With effect from 1 July 2010, the table of basic monthly salaries in Article 93 of the Conditions of Employment of Other Servants shall be replaced by the following:

FUNCTION GROUP	1.7.2010	STEP						
	GRADE	1	2	3	4	5	6	7
IV	18	5 832,42	5 953,71	6 077,52	6 203,91	6 332,92	6 464,62	6 599,06
	17	5 154,85	5 262,04	5 371,47	5 483,18	5 597,20	5 713,60	5 832,42
	16	4 555,99	4 650,73	4 747,45	4 846,17	4 946,95	5 049,83	5 154,85
	15	4 026,70	4 110,44	4 195,92	4 283,18	4 372,25	4 463,17	4 555,99
	14	3 558,90	3 632,91	3 708,46	3 785,58	3 864,31	3 944,67	4 026,70
	13	3 145,45	3 210,86	3 277,63	3 345,80	3 415,37	3 486,40	3 558,90
III	12	4 026,63	4 110,36	4 195,84	4 283,09	4 372,15	4 463,07	4 555,88
	11	3 558,86	3 632,87	3 708,41	3 785,53	3 864,25	3 944,60	4 026,63
	10	3 145,43	3 210,84	3 277,61	3 345,77	3 415,34	3 486,36	3 558,86
	9	2 780,03	2 837,84	2 896,86	2 957,09	3 018,59	3 081,36	3 145,43
	8	2 457,08	2 508,17	2 560,33	2 613,57	2 667,92	2 723,40	2 780,03
II	7	2 779,98	2 837,80	2 896,82	2 957,07	3 018,58	3 081,36	3 145,45
	6	2 456,97	2 508,07	2 560,24	2 613,49	2 667,84	2 723,33	2 779,98
	5	2 171,49	2 216,65	2 262,76	2 309,82	2 357,86	2 406,91	2 456,97
	4	1 919,18	1 959,10	1 999,84	2 041,44	2 083,90	2 127,24	2 171,49
I	3	2 364,28	2 413,35	2 463,43	2 514,56	2 566,74	2 620,01	2 674,39
	2	2 090,12	2 133,50	2 177,78	2 222,98	2 269,11	2 316,21	2 364,28
	1	1 847,76	1 886,11	1 925,25	1 965,21	2 005,99	2 047,63	2 090,12

Article 11

With effect from 1 July 2010, the lower limit for the installation allowance referred to in Article 94 of the Conditions of Employment of Other Servants shall be:

— EUR 838,66 for a servant who is entitled to the household allowance,

— EUR 497,22 for a servant who is not entitled to the household allowance.

Article 12

With effect from 1 July 2010, for the unemployment allowance referred to in the second subparagraph of Article 96(3) of the Conditions of Employment of Other Servants, the lower limit shall be EUR 1 002,90, the upper limit shall be EUR 2 005,78.

With effect from 1 July 2010, the standard allowance referred to in Article 96(7) shall be EUR 911,73.

With effect from 1 July 2010, for the unemployment allowance referred to in Article 136 of the Conditions of Employment of Other Servants, the lower limit shall be EUR 882,33 and the upper limit shall be EUR 2 076,07.

Article 13

With effect from 1 July 2010, the allowances for shift work laid down in the first subparagraph of Article 1(1) of Council Regulation (ECSC, EEC, Euratom) No 300/76 [1] shall be EUR 382,17, EUR 576,84, EUR 630,69 and EUR 859,84.

[1] Council Regulation (ECSC, EEC, Euratom) No 300/76 of 9 February 1976 determining the categories of officials entitled to allowances for shift work, and the rates and conditions thereof (OJ L 38, 13.2.1976, p. 1).

Article 14

With effect from 1 July 2010, the amounts referred to in Article 4 of Council Regulation (EEC, Euratom, ECSC) No 260/68 ([1]) shall be subject to a coefficient of 5,516766.

Article 15

With effect from 1 July 2010, the table in Article 8(2) of Annex XIII to the Staff Regulations shall be replaced by the following:

1.7.2010	STEP							
GRADE	1	2	3	4	5	6	7	8
16	16 919,04	17 630,00	18 370,84	18 370,84	18 370,84	18 370,84		
15	14 953,61	15 581,98	16 236,75	16 688,49	16 919,04	17 630,00		
14	13 216,49	13 771,87	14 350,58	14 749,83	14 953,61	15 581,98	16 236,75	16 919,04
13	11 681,17	12 172,03	12 683,51	13 036,39	13 216,49			
12	10 324,20	10 758,04	11 210,11	11 521,99	11 681,17	12 172,03	12 683,51	13 216,49
11	9 124,87	9 508,31	9 907,86	10 183,52	10 324,20	10 758,04	11 210,11	11 681,17
10	8 064,86	8 403,76	8 756,90	9 000,53	9 124,87	9 508,31	9 907,86	10 324,20
9	7 127,99	7 427,52	7 739,63	7 954,96	8 064,86			
8	6 299,95	6 564,69	6 840,54	7 030,86	7 127,99	7 427,52	7 739,63	8 064,86
7	5 568,11	5 802,09	6 045,90	6 214,10	6 299,95	6 564,69	6 840,54	7 127,99
6	4 921,28	5 128,07	5 343,56	5 492,23	5 568,11	5 802,09	6 045,90	6 299,95
5	4 349,59	4 532,36	4 722,82	4 854,21	4 921,28	5 128,07	5 343,56	5 568,11
4	3 844,31	4 005,85	4 174,18	4 290,31	4 349,59	4 532,36	4 722,82	4 921,28
3	3 397,73	3 540,50	3 689,28	3 791,92	3 844,31	4 005,85	4 174,18	4 349,59
2	3 003,02	3 129,21	3 260,71	3 351,42	3 397,73	3 540,50	3 689,28	3 844,31
1	2 654,17	2 765,70	2 881,92	2 962,10	3 003,02			

Article 16

With effect from 1 July 2010, for the application of Article 18(1) of Annex XIII to the Staff Regulations, the amount of the fixed allowance mentioned in the former Article 4a of Annex VII to the Staff Regulations in force before 1 May 2004 shall be:

— EUR 131,84 per month for officials in Grade C 4 or C 5,

— EUR 202,14 per month for officials in Grade C 1, C 2 or C 3.

Article 17

With effect from 1 July 2010, the scale for basic monthly salaries in Article 133 of the Conditions of Employment of Other Servants shall be replaced by the following:

([1]) Regulation (EEC, Euratom, ECSC) No 260/68 of the Council of 29 February 1968 laying down the conditions and procedure for applying the tax for the benefit of the European Communities (OJ L 56, 4.3.1968, p. 8).

Grade	1	2	3	4	5	6	7
Full-time basic salary	1 680,76	1 958,08	2 122,97	2 301,75	2 495,58	2 705,73	2 933,59
Grade	8	9	10	11	12	13	14
Full-time basic salary	3 180,63	3 448,48	3 738,88	4 053,72	4 395,09	4 765,20	5 166,49
Grade	15	16	17	18	19		
Full-time basic salary	5 601,56	6 073,28	6 584,71	7 139,21	7 740,41		

Article 18

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

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

Done at Brussels, 20 December 2010.

For the Council
The President
J. SCHAUVLIEGE

COUNCIL REGULATION (EU) No 1240/2010

of 20 December 2010

adjusting, from 1 July 2010, the rate of contribution to the pension scheme of officials and other servants of the European Union

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Staff Regulations of Officials of the European Communities and the conditions of Employment of Other servants of the Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 [1], and in particular Article 83a thereof and Annex XII thereto,

Having regard to the proposal from the European Commission,

Whereas:

(1) In accordance with Article 13 of Annex XII to the Staff Regulations, on 1 September 2010 Eurostat submitted a report on the 2010 actuarial assessment of the pension scheme updating the parameters referred to in that Annex. According to this assessment, the rate of contribution required to maintain actuarial balance of the pension scheme is 11,6 % of basic salary.

(2) In the interests of actuarial balance of the pension scheme of officials and other servants of the European Communities, the rate of contribution should therefore be adjusted to 11,6 % of the basic salary,

HAS ADOPTED THIS REGULATION:

Article 1

With effect from 1 July 2010, the rate of the contribution referred to in Article 83(2) of the Staff Regulations shall be 11,6 %.

Article 2

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

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

Done at Brussels, 20 December 2010.

For the Council
The President
J. SCHAUVLIEGE

[1] OJ L 56, 4.3.1968, p. 1.

COUNCIL IMPLEMENTING REGULATION (EU) No 1241/2010

of 20 December 2010

amending Regulation (EC) No 452/2007 imposing a definitive anti-dumping duty on imports of ironing boards originating, inter alia, in the People's Republic of China

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 1515/2001 of 23 July 2001 on the measures that may be taken by the Community following a report adopted by the WTO Dispute Settlement Body concerning anti-dumping and anti-subsidy matters ([1]), and in particular Article 2(1) thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) Following an anti-dumping investigation concerning imports of ironing boards originating in the People's Republic of China ('PRC') and Ukraine ('the first investigation'), anti-dumping measures were imposed by Council Regulation (EC) No 452/2007 of 23 April 2007 ([2]). That Regulation entered into force on 27 April 2007.

(2) It is recalled that the rate of the definitive anti-dumping duty imposed on ironing boards produced by the Chinese exporting producer Since Hardware (Guangzhou) Co. Ltd ('Since Hardware') was 0 % while it ranged between 18,1 % and 38,1 % for other Chinese exporting producers. Following a subsequent interim review, these duty rates were increased to up to 42,3 % by Implementing Regulation of the Council (EU) No 270/2010 of 29 March 2010 amending Regulation (EC) No 452/2007 ([3]).

2. Initiation of a new proceeding

(3) On 2 October 2009, the Commission announced, by a notice published in the *Official Journal of the European Union* ([4]) ('notice of initiation'), the initiation of an anti-dumping investigation pursuant to Article 5 of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ([5]) ('the basic Regulation') concerning imports into the Union of ironing boards originating in the PRC, limited to Since Hardware. In the notice of initiation, the Commission also announced the initiation of a review pursuant to Article 2(3) of Regulation (EC) No 1515/2001 in order to allow for any necessary amendment of Regulation (EC) No 452/2007 in the light of the WTO Appellate Body report entitled 'Mexico — Definitive Anti-dumping Measures on Beef and Rice' (AB-2005-6) ([6]). This report stipulates in paragraphs 305 and 306 that an exporting producer not found to be dumping in an original investigation has to be excluded from the scope of the definitive measure imposed as a result of such investigation and cannot be made subject to administrative and changed circumstances reviews.

3. Exclusion of Since Hardware from the definitive anti-dumping measure imposed by Regulation (EC) No 452/2007

(4) Since Hardware should be excluded from the definitive anti-dumping measure imposed by Regulation (EC) No 452/2007 in order not to make Since Hardware fall under two anti-dumping proceedings at the same time,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 452/2007 is hereby amended as follows:

In Article 1(2), in the table, the entry concerning Since Hardware (Guangzhou) Co. Ltd shall be deleted and the entry 'All other companies' shall be replaced by the entry 'All other companies (except Since Hardware (Guangzhou) Co. Ltd, Guangzhou — TARIC additional code A784)'.

Article 2

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

([1]) OJ L 201, 26.7.2001, p. 10.
([2]) OJ L 109, 26.4.2007, p. 12.
([3]) OJ L 84, 31.3.2010, p. 13.
([4]) OJ C 237, 2.10.2009, p. 5.
([5]) OJ L 343, 22.12.2009, p. 51.
([6]) WT/DS295/AB/R, 29 November 2005.

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

Done at Brussels, 20 December 2010.

For the Council
The President
J. SCHAUVLIEGE

COUNCIL IMPLEMENTING REGULATION (EU) No 1242/2010

of 20 December 2010

imposing a definitive anti-dumping duty on imports of synthetic fibre ropes originating in India following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community [1] ('the basic Regulation'), and in particular Article 9(4) and Article 11(2) and (5) thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) By Regulation (EC) No 1312/98 of 24 June 1998 [2], the Council, following an anti-dumping investigation ('the original investigation') imposed definitive anti-dumping duties ('the original measures') on imports of synthetic fibre ropes originating in India. The duty levels imposed were 53 % for one Indian exporting producer and 82 % for all other imports originating in India ('the country concerned').

(2) Following an expiry review pursuant to Article 11(2) of the basic Regulation ('the previous expiry review'), the Council maintained these measures by Regulation (EC) No 1736/2004 of 4 October 2004 imposing a definitive anti-dumping duty on imports of synthetic fibre ropes originating in India [3].

2. Request for a review

(3) A request for an expiry review pursuant to Article 11(2) of the basic Regulation was lodged on 4 May 2009 by the Liaison Committee of the EU Twine, Cordage and Netting Industries (Eurocord) ('the applicant') on behalf of Union producers representing a major proportion, in this case more than 50 %, of the Union production of synthetic fibre ropes.

(4) The request was based on the grounds that expiry of the measures would be likely to result in a recurrence of dumping and injury to the Union industry.

(5) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission announced on 7 October 2009, by a notice of initiation published in the *Official Journal of the European Union* [4] ('the notice of initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

3. Investigation

3.1. *Investigation period*

(6) The investigation concerning the likelihood of a continuation or recurrence of dumping covered the period between 1 October 2008 and 30 September 2009 (the 'review investigation period' or 'RIP'). The examination of trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period between 1 January 2006 and the end of the RIP (the 'period considered').

3.2. *Parties concerned by this investigation*

(7) The Commission officially advised the known Union producers, the exporters and exporting producers in the country concerned, the representatives of the country concerned, importers as well as an association of users which were known to be concerned, of the initiation of the expiry review.

(8) Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limits set in the notice of initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ L 183, 26.6.1998, p. 1.
[3] OJ L 311, 8.10.2004, p. 1.
[4] OJ C 240, 7.10.2009, p. 6.

4. **Sampling**

(9) In view of the apparent high number of Union producers and exporting producers in India, it was considered appropriate, in accordance with Article 17 of the basic Regulation, to examine whether sampling should be used. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the above parties were requested to make themselves known within 15 days of the initiation of the review and to provide the Commission with the information requested in the notice of initiation.

(10) A total of five Indian producers, two of which belonging to the same group, came forward and provided the requested information within the given deadline and expressed a wish to be included in the sample. Four of these five companies produced and exported the product concerned to the Union market during the RIP. The fifth company did not export the product concerned to the Union market during the RIP. All five companies were regarded as cooperating companies and were considered for sampling. The level of cooperation from India, i.e. the percentage of exports to the Union by the Indian cooperating companies as compared to all Indian exports to the Union could not be calculated as the total exports to the Union during the RIP reported by the five cooperating companies was significantly higher than the volume registered by Eurostat for all exports from India, for the reasons detailed in recitals 21 to 23.

(11) The sample was selected in agreement with the Indian authorities and included those four companies which reported export sales to the Union. Two of the four sampled companies were related. It is recalled that in the original investigation only one exporting producer cooperated and it is at present subject to an individual anti-dumping duty. It is also recalled that in the previous expiry review none of the Indian exporting producers cooperated and therefore, in accordance with the provisions of Article 18(1) of the basic Regulation, the findings were based on the facts available.

(12) Eighteen Union producers (all fifteen complainants and three further producers, altogether representing 78 % of the total Union production) provided the requested information and agreed to be included in the sample. On the basis of the information received from the cooperating Union producers, the Commission selected a sample of five Union producers representing approximately 40 % of the Union industry, as defined in recital 40, and about half of the sales by all cooperating Union producers to unrelated customers in the Union. The sample was selected on the basis of the largest representative sales volume and geographical coverage of producers within the Union that could reasonably be investigated within the time available. One of the five sampled Union producers started operating during the period considered, therefore their data were not used in the analysis of the trends of injury indicators, in order to avoid distortions in those trends. Nonetheless the figures of the other four sampled Union producers used for the analysis of those trends remained representative.

(13) The Commission sent questionnaires to the five sampled Union producers as well as to the four sampled Indian exporting producers.

(14) Questionnaire replies were received from all five sampled Union producers. Out of the four sampled Indian exporting producers, one ceased cooperating while the other three (two of which related) replied to the questionnaire within the given deadlines. For this reason, in the end, the sample of Indian exporting producers consisted of those three Indian companies that replied to the questionnaire.

5. **Verification of information received**

(15) The Commission sought and verified all the information it deemed necessary to determine the continuation or likelihood of recurrence of dumping and injury and of the Union interest. Verification visits were carried out at the premises of the following companies:

5.1. *Exporting producers in India*

— Axiom Imex International Ltd., Boisar,

— Tufropes Private Limited, Silvassa,

— India Nets, Indore;

5.2. *Union producers*

— Cordoaria Oliveira SÁ (Portugal),

— Eurorope SA (Greece),

— Lanex A.S. (Czech Republic),

— Lankhorst Euronete Ropes (Portugal),

— Teufelberger Ges.m.b.H. (Austria).

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(16) The product concerned is the same as in the original investigation and is defined as follows: twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics, of polyethylene or polypropylene, other than binder and baler twine, measuring more than 50 000 decitex (5 g/m), as well as of other synthetic fibres of nylon or other polyamides or of polyesters, measuring more than 50 000 decitex (5 g/m). It is currently falling within CN codes 5607 49 11, 5607 49 19, 5607 50 11. and 5607 50 19. The product concerned is used for a wide variety of marine and industrial applications, in particular for shipping (especially for mooring purposes), and the fishing industry.

(17) One interested party claimed that the mooring ropes referred to above are not falling within the definition of the product concerned as, due to the splices attached to these ropes, such products should be declared as 'articles of ropes' which belong to another CN code (see also in recital 23). It should be noted however, that the reference to mooring ropes is made only in the context of applications of different types of the product concerned which are all defined as synthetic fibre ropes as set out in recital 16.

2. **Like product**

(18) As shown in the original investigation, and as confirmed in the present investigation, the product concerned and the synthetic fibre ropes produced and sold by the Indian exporting producers on their domestic market, as well as those produced and sold by the Union producers in the Union, are in all respects identical and share the same basic physical and chemical characteristics. Therefore, they are considered to be alike within the meaning of Article 1(4) of the basic Regulation.

(19) One interested party has claimed that the product manufactured by the Union industry is not comparable with the product concerned given that the Union producers had started using a new type of raw material called Dyneema, which is much more expensive than other raw materials as products based on it have much better resistance. Indeed the sampled Indian producers are not using this type of raw material. However, it should firstly be noted that the products in question represent only a small part of the products sold by Union producers. Indeed, albeit it is correct that this type of fibre is increasingly used by some Union producers, Dyneema ropes account for only a minor fraction of Union production. Therefore, while the significant difference in the cost of raw material (potentially around 25-30 times more expensive) can have some impact notably on the injury indicator concerning the average sales price of the Union industry, the impact of Dyneema ropes on the overall assessment remains limited due to the overwhelming quantity of 'standard' ropes produced in the Union. Secondly, all calculations of this expiry review were based on the comparison of corresponding product types, which takes account of different raw materials. Therefore the calculations cannot be distorted by a difference in the product mix. In any event, the product which uses the raw materials such as Dyneema, still has the same basic physical and chemical characteristics as the product concerned. The claim was therefore rejected.

C. **LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING**

(20) In accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was likely to continue or recur upon a possible expiry of the measures in force against India.

1. **Volume of imports**

(21) On the basis of Eurostat data, the volume of imports of the product concerned from India was insignificant throughout the period considered. During the RIP, the volume of imports from India was 31 tonnes i.e. less than 0,1 % of Union consumption during the RIP:

(tonnes)	2006	2007	2008	RIP
India	3	4	19	31

Imports of the product concerned from India, source - Comext

(22) However, according to verified data, the three companies included in the sample shipped significantly higher volumes of the product concerned to the Union during the RIP than the volumes reported in Eurostat. In this respect it is recalled that in the original investigation, importers provided information showing that some quantities of the product concerned purchased from India had not been released into free circulation on the Union market but were put into bonded warehouses and sold to ocean-going ships or offshore platforms. One complaining producer reiterated this argument in the present investigation. Due to lack of cooperation of port traders in the investigation, this claim could not be verified. However, on the basis of the customer list submitted by the sampled exporting producers, it was apparent that most of the customers were indeed shipping, maritime and offshore suppliers in the Union ports. On the basis of the above, it appears that the difference between the statistical data and the reported figures is due to such sales.

(23) It should also be mentioned that the request for expiry review contained allegations of circumvention practices. In this respect, the applicant claimed that certain volumes of synthetic fibre ropes from India entered into the Union under CN heading 5609 (Articles of […] twine, cordage, ropes or cables) which is not subject to measures. However, no information was found in the present investigation to support this view.

(24) On the basis of the above, it is considered that 31 tonnes of the product concerned were actually imported from India into the customs territory of the Union in the RIP. As concerns the verified export sales to the Union ports, which had not been released into free circulation on the Union market by the three sampled Indian producers, these sales are considered as part of Indian exports to other third countries.

(25) Given the absence of significant import volumes from India into the Union, these did not form a basis for a representative analysis for the likelihood of a continuation of dumping or injury. Indeed in view of such limited actual import volumes it cannot be concluded that injurious dumping from India existed during the RIP. Therefore, the analysis focused on the likelihood of recurrence of dumping and injury should the measures be allowed to expire.

2. **Likely development of imports should measures be repealed**

2.1. *Production capacity*

(26) It has been examined whether there is unused production capacity in the country concerned which would create a potential for the resumption of dumped exports in case the measures were repealed.

(27) It has been found that the production capacity of the three sampled exporting producers sharply increased between 2007 and the RIP while capacity utilisation decreased at the same time. The spare capacities of the three companies were around 75 % of Union consumption in the RIP. This points to a likely increase in export volumes to the Union should the measures be allowed to expire.

(28) Concerning the other producers of synthetic fibre ropes in India, it is known that Garware, the company which stopped cooperation after the sampling phase, is an important producer and, according to its official website, it has a significant production capacity. In addition, the request for expiry review lists four other large Indian producers. There are also several medium and small sized Indian producers which had mainly domestic sales. In the absence of cooperation from these Indian producers, their production capacity is not known, but it can be assumed that the trend of the cooperating companies is comparable and thus these producers have further spare capacity.

(29) Following the disclosure of the findings, all sampled Indian producers challenged the data relating to their aggregate spare capacity. However, all those data were actually reported by the companies themselves and were verified by way of on-spot investigations at each of them. Therefore these claims were rejected.

2.2. *Volume of sales to Union ports and to other export markets*

(30) The volume of export sales of the three sampled exporting producers to other third countries, including Union port sales which do not enter the customs territory of the Union, are significant and increased by around 80 % during the period considered, representing almost half of the total sales of the exporting producers during the RIP.

(31) Actual imports to the Union have practically stopped after the imposition of the original measures. However, it must be noted that the sampled producers' volume of export sales to Union ports considerably increased in the period considered, from 61 to 785 tonnes. Given that actual import sales to the Union are made in part via the same sales channels as the products sold at Union ports, this increasing presence at the doorstep of the Union market may indicate that, in the absence of measures, the sampled Indian producers – and maybe others as well – could start selling substantial quantities of the product concerned on the Union market within a short period of time.

(32) In view of the above-mentioned export orientation of the Indian producers as well as their growing presence in Union ports, it can be concluded that it is highly probable that if the measures were allowed to expire, then Indian export quantities to the Union would significantly increase.

(33) Following the disclosure of the findings of the review, an Indian producer pointed out that Indian exports are well diversified around the world, among markets with growth potential, thus exports to the Union would not resume in substantial quantities in the absence of measures. It is acknowledged that some Indian producers may have diversified export sales to different markets; however, this cannot be considered as sufficient to alter the conclusions drawn on the basis of the above mentioned findings.

2.3. *Relationship between export prices to third countries and normal value*

(34) An indicative dumping calculation was made on the basis of the verified sales to Union ports of the three sampled exporting producers, which, though considered as part of export sales to other third countries, provide a good indication for potential prices of Indian synthetic fibre ropes in the absence of duties. The normal values were based on the domestic prices on the Indian market. Based on these figures, dumping was established for two of the three sampled Indian producers. The dumping margins were found to be on average 10 % which can be considered as significant even though much lower than those established in the original investigation.

(35) A comparison of prices achieved by the three sampled exporting producers on other third country markets (excluding Union port sales) with their domestic prices showed a similar result although the dumping margins established on this basis were lower.

(36) Following the disclosure of the findings of this investigation, one Indian producer claimed that no dumping was found in respect of Indian imports to the Union. However, there were almost no actual imports either. In addition, dumping was established for both sales to Union ports and sales to other third countries. Therefore this claim was dismissed.

(37) Another interested party claimed that the dumping margins established by this review cannot be considered significant when compared to the existing duty levels, given the significant difference in labour costs between the Union and Asia. It should be noted however, that labour costs in the Union are irrelevant for the calculation of the dumping margin.

3. **Conclusion on the likelihood of a recurrence of dumping**

(38) On the basis of the above analysis, it is concluded that the exporting producers have vast production potential to restart exporting to the Union if the measures were allowed to expire. Concerning prices, two sampled producers were found to be selling at dumped prices to other third countries. In addition, also considering Garware which stopped cooperating, there are five other large exporting producers listed in the complaint which, on the basis of the information available, can be assumed to follow the trend of the companies found selling at dumped prices to other third countries.

(39) The indication that Indian exporting producers keep a strategic interest in the Union market, demonstrated by their increasing volumes of export sales to Union ports, together with a huge spare capacity available, make it likely that they would resume exports to the Union in significant quantities should the measures lapse. Taking into account the pricing behaviour of the Indian exporters on third-country markets, it is highly probable that a resumption of exports would take place at dumped prices. It is therefore concluded that the expiry of measures is likely to lead to a recurrence of dumping.

D. **DEFINITION OF THE UNION INDUSTRY**

(40) The Union producers accounting for the total Union production constitute the Union industry within the meaning of Article 4(1) of the basic Regulation. The number of Union producers can be estimated at around forty.

(41) The fifteen Union producers on whose behalf the request for the expiry review was lodged by the complainant association, and three other Union producers submitted information for the selection of the sample requested in the notice of initiation. As mentioned in recital 12, a sample of five producers, representing approximately 40 % of the Union industry, was investigated in detail. The sample consisted of the following companies:

— Cordoaria Oliveira SÁ (Portugal),

— Eurorope SA (Greece),

— Lanex A.S. (Czech Republic),

— Lankhorst Euronete Ropes (Portugal),

— Teufelberger Ges.m.b.H. (Austria).

(42) As already stated in recital 12, the eighteen cooperating Union producers represented 78 % of total Union production during the RIP.

E. **SITUATION ON THE UNION MARKET**

1. **Consumption in the Union market**

(43) Union consumption of synthetic fibre ropes was established on the basis of sales volumes of the Union industry on the Union market (including the sales of non-cooperating Union producers as estimated by the complainant association) plus all imports into the Union, as based on Eurostat.

(44) On the above basis it can be established that during the period considered, the Union consumption has decreased by 7 %. In particular, after having increased by 16 % between 2006 and 2007, the consumption dropped by 20 % between 2007 and the RIP.

	2006	2007	2008	RIP
Total Union consumption (tonnes)	34 318	39 816	36 777	31 944
Index (2006=100)	*100*	*116*	*107*	*93*

Source: Investigation (sampled Union producers), Complainant (non-sampled Union producers), Eurostat (imports)

2. **Imports from India**

(45) As mentioned in recital 21, actual Indian imports to the Union were negligible throughout the period considered due to the effective anti-dumping measures in force.

(46) However, as explained in recital 22, there is an increasing presence of Indian producers at the doorstep of the Union market, by way of export sales to the Union ports not being subject to customs clearance and thus free of the said anti-dumping duties.

3. **Prices and volume of Indian exports to other third countries**

(47) Since actual Indian imports to the Union were negligible, a price comparison was made between prices of Indian exports to other third countries (including the exports sold to Union ports not subject to the anti-dumping duties) and prices of Union sales made by the sampled Union industry producers.

(48) On this basis it was established that Indian exports to other third countries were made at sales prices significantly lower than those of the Union industry. The price difference thus established reached the level of 46 % and on average amounted to 18 %.

(49) The value of Indian export sales to other third countries increased by more than 30 % during the period considered. Such sales represented close to half of the total turnover of the sampled Indian exporting producers during the RIP.

4. **Imports from other countries**

(50) Despite the drop in consumption by 7 % on the Union market, the volume of imports from other third countries increased during the period considered by 18 %. Thereby the market share of these imports increased from 17 % to 22 %.

(51) It should be noted that imports from the People's Republic of China ('PRC') increased by 46 % during the period considered, reaching a market share of 8,6 % (up from 5,5 % in 2006). Although a precise comparison cannot be carried out due to the general nature of Eurostat data which are not detailed by product type, it appears that the average price of Chinese imports to the Union is substantially higher than the average price of Indian export sales. In addition, the average price of Chinese imports seems to be in line with the prices of the Union industry.

(52) Imports from the Republic of Korea ('Korea') to the Union had a market share constantly remaining around the level of 3 % during the period considered. Also, the volume of these imports has decreased by 6 % in line with shrinking consumption.

(53) Imports from any other third country represented less than 2 % of market share on the Union market of synthetic fibre ropes during the RIP.

5. **Economic situation of the Union industry**

5.1. *Preliminary remarks*

(54) All injury indicators listed in Article 3(5) of the basic Regulation have been analysed. As concerns the indicators on the sales volume and the market share of Union producers, these have been analysed on the basis of data collected for all Union producers i.e. the Union industry. As regards all other injury indicators, their examination was based on the information submitted by the sampled Union producers as verified at the premises of each company, as mentioned in recital 15. As already stated in recital 12, one of the Union producers started operating during the period considered, therefore their data were not used in the analysis of the trends of injury indicators, in order to avoid distortions in those trends.

5.2. *Sales volume of the Union industry*

(55) Sales of the Union industry have decreased substantially by 12 % over the period considered. As already stated in recital 44, Union consumption has decreased by 7 % over the period considered, with a particularly sharp drop starting from the year 2007. It should be highlighted that the sales volume of the Union industry on the Union market has decreased at a faster pace than the fall in consumption:

	2006	2007	2008	RIP
Union sales volume of the Union industry (tonnes)	28 393	32 161	28 911	24 955
Index (2006=100)	*100*	*113*	*102*	*88*

Source: Investigation (sampled Union producers), Complainant (non-sampled Union producers)

5.3. *Market share of the Union industry*

(56) The developments outl ined in the preceding recital and the above table have resulted in a loss of market share of the Union industry between 2006 and the RIP. The reduction of the Union industry market share was continuous, with the loss amounting to 4,6 percentage points:

	2006	2007	2008	RIP
Market share of the Union industry (%)	82,7 %	80,8 %	78,6 %	78,1 %
Index (2006=100)	*100*	*98*	*95*	*94*

Source: Investigation (sampled Union producers), Complainant (non-sampled Union producers)

(57) It should be noted that the above loss of market share of the Union industry was in a large part due to the increased market share of Chinese imports (see recital 50).

5.4. *Production, production capacity and capacity utilisation*

(58) In line with the development of sales volumes, the production volume of the sampled Union producers has fallen at a comparable rate - by 17 % during the period considered. The production capacity increased by 5 % over the same period. This lead to a drop of 20 % in capacity utilisation between 2008 and the RIP:

	2006	2007	2008	RIP
Production (tonnes)	11 229	12 286	12 150	9 372
Index (2006=100)	*100*	*109*	*108*	*83*
Production capacity (tonnes)	21 510	23 467	23 278	22 480
Index (2006=100)	*100*	*109*	*108*	*105*
Capacity utilisation (%)	52,2 %	52,4 %	52,2 %	41,7 %
Index (2006=100)	*100*	*100*	*100*	*80*

Source: Investigation (sampled Union producers)

5.5. *Stocks*

(59) Regarding stocks, in general producers of synthetic fibre ropes keep the levels of their stocks at a rather low level as most of the production is made upon demand. It could be observed that during the period considered, average stocks showed a decrease, notably in the RIP, which was largely due to the reductions in the manufacturing of synthetic fibre ropes.

	2006	2007	2008	RIP
Closing stock (tonnes)	1 073	982	1 156	905
Index (2006=100)	*100*	*92*	*108*	*84*

Source: Investigation (sampled Union producers)

5.6. *Sales prices*

(60) Average prices of the like product sold in the Union by the sampled Union producers have increased to some extent throughout the period considered, in particular between 2007 and the RIP:

	2006	2007	2008	RIP
Average unit sales price of the Union industry (EUR/tonne)	5 268	5 229	5 670	5 766
Index (2006=100)	*100*	*99*	*108*	*109*

Source: Investigation (sampled Union producers)

(61) It should be noted, however, that the above average sales price is calculated on the basis of all product types including synthetic fibre ropes of the highest value, for example synthetic fibre ropes based on the raw material called Dyneema. The price variation among these different product types is indeed huge (see recital 19). In recent years, the Union industry has increased the manufacturing of higher value products. Thus such synthetic fibre ropes represent a growing share within their product mix. Such recent changes in the product mix are one of the reasons for the increase of the average unit sales prices of the Union industry.

5.7. *Profitability*

(62) Thanks in part to the effective measures in force and in part to the diversification of its product mix, the sampled Union producers were able to maintain a stable and healthy level of profitability throughout the period considered:

	2006	2007	2008	RIP
Profitability of the Union industry (%)	9,7 %	11,1 %	10,0 %	12,4 %
Index (2006=100)	*100*	*115*	*104*	*128*

Source: Investigation (sampled Union producers)

5.8. *Investments and ability to raise capital*

(63) Investments were at relatively high levels in 2006 and 2007, after which they fell to half of the previous amount. During the RIP, virtually no investments were made.

	2006	2007	2008	RIP
Net investments (EUR)	3 574 130	3 886 212	1 941 222	168 877
Index (2006=100)	*100*	*109*	*54*	*5*

Source: Investigation (sampled Union producers)

5.9. *Return on investments*

(64) In line with the stable profitability trend, the return on investments also increased throughout the period considered.

	2006	2007	2008	RIP
Return on investments (%)	21,4 %	25,5 %	26,1 %	28,4 %
Index (2006=100)	*100*	*119*	*122*	*132*

Source: Investigation (sampled Union producers)

5.10. *Cash flow*

(65) The cash flow of the sampled Union producers remained at relatively stable levels during the period considered:

	2006	2007	2008	RIP
Cash flow (EUR)	6 033 496	7 973 188	7 790 847	6 911 360
Index (2006=100)	*100*	*132*	*129*	*115*

Source: Investigation (sampled Union producers)

5.11. *Employment, productivity and labour costs*

(66) The employment situation of the sampled Union producers was developing positively between 2006 and 2008. However, from 2008 to the RIP there was a decline in employment due to the decreasing demand on the market. The fall in demand, resulting in reduced production, also lead to a drop in productivity between 2008 and the RIP. As concerns the annual labour costs per employee, this increased until 2008, followed by a slight decrease during the RIP.

	2006	2007	2008	RIP
Employment (persons)	638	665	685	623
Index (2006=100)	*100*	*104*	*107*	*98*
Annual labour costs per employee (EUR)	12 851	13 688	14 589	14 120
Index (2006=100)	*100*	*107*	*114*	*110*
Productivity (tonnes per employee)	17,6	18,4	17,7	15,0
Index (2006=100)	*100*	*105*	*101*	*85*

Source: Investigation (sampled Union producers)

5.12. *Growth*

(67) Between 2006 and the RIP, whilst the Union consumption decreased by 7 % (see recital 44), the volume of sales by the Union industry on the Union market decreased by 12 %, and the Union industry's market share decreased by 6 percentage points (see recitals 55 and 56). On the other hand, while the volume of actual Indian imports remained negligible due to the measures in force, the volume of imports from other countries grew by 18 % (mostly due to imports from the PRC), gaining an additional 5 percentage points of market share (see recital 50). It is thus concluded that the Union industry was more affected by the drop in consumption and thus experienced a more substantial loss in sales volume than other players on the market.

5.13. *Magnitude of the dumping margin*

(68) Due to the fact that imports of the product concerned from India during the RIP were negligible, no dumping margin could be established for actual Indian imports. It should be noted, however, that Indian exports to the Union ports, not subject to customs clearance, have substantially increased and part of these sales were found to be made at dumped prices.

5.14. *Recovery from past dumping*

(69) It was analysed whether the Union industry is still in the process of recovering from the effects of past dumping. It was concluded that the Union industry had already managed to recover to a large extent from such effects given that the effective anti-dumping measures had been in place for a long period of time.

5.15. *Conclusion on the situation of the Union industry*

(70) Thanks to the fact that effective anti-dumping duties have been in place concerning imports of synthetic fibre ropes originating in India, the Union industry appears to have managed to recover to a large extent from the effects of past injurious dumping.

(71) Nevertheless it cannot be concluded that the situation of the Union industry is secure. Although certain injury indicators relating to the financial performance of the Union producers – notably profitability, return on investments and cash-flow – appear to show a relatively stable picture, other injury indicators – in particular sales volume and market share, production and capacity utilisation as well as investments – clearly indicate that the Union industry was still in a rather fragile situation at the end of the RIP. Following the disclosure of the findings of this investigation, one Indian producer alleged that the Union industry did not suffer injury during the RIP. In this respect, it should be noted that it has not been stated that the Union industry was suffering material injury during the RIP. Instead, the conclusion drawn on the basis of the findings of the review was that some of the indicators showed a stable picture whilst there were signs of injury in respect of other indicators.

(72) Some parties claimed that the negative trends of some injury indicators are not caused by Indian imports but are due to the global economic crisis and the increased market share of Chinese imports. In this regard, it should be noted that the negative development of certain indicators was not attributed to the almost non-existent Indian imports. In addition, the increase of Chinese imports was examined and it did not have an impact on the analysis of the likelihood of recurrence of injurious dumping.

(73) With regard to the viability of the Union industry in general, it must be noted that the gradual introduction of various high value products on the market – both within the Union and on markets of third countries – appears to put the long-term competitiveness of the Union industry in a positive perspective, given that the number of producers manufacturing such high quality synthetic fibre ropes is at present limited on the global market.

F. **LIKELIHOOD OF RECURRENCE OF INJURY**

(74) As mentioned in recital 25, given the negligible volume of imports of the product concerned from India during the RIP, the analysis focused on the likelihood of recurrence of dumping and injury.

(75) As already detailed in recitals 26 to 28, huge spare capacities are available at the Indian exporting producers. In addition, as explained in recitals 30 to 32, the Indian producers have a strong orientation and an incentive to sell their products in large volumes on export markets. Moreover, as mentioned in recital 31, the Indian producers are strongly and increasingly present at the Union ports. For these reasons, it can be concluded that imports from India to the Union are highly likely to reach significant quantities in a short period of time should measures be allowed to expire.

(76) As stated in recitals 34 and 35, in the absence of measures, Indian imports are likely to resume at dumped prices. In addition, as stated in recitals 47 and 48 above, it was also found that the fact that the sales price of Indian producers are on average 18 % lower than those of the Union industry (and such price difference may reach the level of 46 %) appears to indicate that, in the absence of measures, Indian producers are likely to export the product concerned to the Union market at prices considerably lower than those of the Union industry i.e. they are likely to undercut the sales prices of the Union producers.

(77) In the light of the above, it can be concluded that in the absence of measures, it is highly probable that Indian imports of the product concerned would resume in substantial quantities and at prices considerably undercutting those of the Union industry.

(78) Given the relatively fragile situation of the Union industry as explained in recitals 71 and 72, a potentially massive recurrence of dumped Indian imports at prices undercutting those in the Union is likely to have an injurious impact on the state of the Union industry. Notably, a sizeable resumption of dumped imports is likely to result in further losses of market share and sales volume of the Union industry, leading to reductions in the manufacturing and a drop in employment. This, along with a substantial price pressure due to imports undercutting the sales prices of the Union producers, would lead to a rapid and serious deterioration of the financial situation of the Union industry.

(79) On the basis of the above, it is concluded that in case the measures are allowed to expire, there is a likelihood of a recurrence of injury from renewed dumped imports of the product concerned from India.

G. UNION INTEREST

1. Preliminary remarks

(80) In accordance with Article 21 of the basic Regulation, it was examined whether the maintenance of the existing anti-dumping measures would be against the interest of the Union as a whole.

(81) The determination of Union interest was based on an appreciation of all the various interests involved, i.e. those of the Union industry, importers, traders, wholesalers and industrial users of the product concerned.

(82) It should be recalled that, in the previous investigations, the imposition of measures was not considered to be against the Union interest. Furthermore, the present investigation is an expiry review, thus analysing a situation in which anti-dumping measures are in place.

(83) On this basis it was examined whether, despite the conclusion on the likelihood of a recurrence of dumping and the likelihood of recurrence of injury, compelling reasons exist which would lead to the conclusion, in this particular case, that it is not in the Union interest to maintain measures.

2. Interests of the Union industry

(84) As already mentioned in recitals 56 and 73, the Union industry was able to maintain a substantial albeit shrinking market share while diversifying its product mix by introducing more high-end synthetic fibre ropes. Therefore it can be considered that the Union industry has remained structurally viable.

(85) In view of the conclusions on the situation of the Union industry set out at recitals 70 to 72, and pursuant to the arguments relating to the analysis on the likelihood of recurrence of injury as explained in recitals 74 to 79, it can also be considered that the Union industry would be likely to experience a serious deterioration of its financial situation in case the anti-dumping duties were allowed to expire, and this would lead to the recurrence of material injury.

(86) Indeed considering the expected volumes and prices of imports of the product concerned from India, the Union industry would be put at serious risk. As explained in recital 78, such imports would lead to a further decline in its market share, sales volume and employment, and would also depress its prices which would eventually result in a deterioration of its profitability, similar to the negative levels found in the original investigation.

(87) In view of the above, and in the absence of any contrary indications, it is concluded that the maintenance of the existing measures would not be against the interest of the Union industry.

3. Interest of unrelated importers/traders

(88) The Commission sent questionnaires to ten unrelated importers/traders. Only one of these companies replied, expressing its objection to the case. However, as the company is related to an Indian producer of synthetic fibre ropes, it cannot be considered as an unrelated importer. As the company is a related importer, its interest is intrinsically linked to the interest of its related Indian producer.

(89) In these circumstances, it is concluded that no compelling reasons appear to exist that would indicate that the continuation of measures would negatively affect to a large extent the unrelated importers/traders concerned.

4. Interest of users

(90) The Commission sent a letter to one industrial association of users of the product concerned. No user submitted a complete questionnaire reply, and no written submissions were received from the association.

(91) Given the absence of cooperation by users, and the fact that the impact of anti-dumping measures is likely to be negligible compared to other costs incurred by main users' industries such as shipbuilding, mechanical engineering and operating offshore platforms, it is concluded that the continuation of measures will not have a substantially negative impact on such users.

5. Conclusion

(92) The continuation of measures can be expected to ensure that the Indian dumped imports do not resume on the Union market in substantial quantities over a short period of time. Thereby the Union industry will continue to benefit from the competitive conditions on the Union market and the reduction of the threat of closures and a drop in employment. The beneficial effects are also expected to warrant the conditions for the Union industry to develop innovative products of higher technology for new and specialised applications.

(93) It should also be noted that, following the consideration of the interest of importers/traders as well as users in the Union, no compelling reasons appear to exist to indicate that the continuation of measures would have a largely negative impact.

(94) Given the above conclusions on the impact of the continuation of the measures on the different players on the Union market, it is concluded that the continuation of measures is not against the Union interest.

H. ANTI-DUMPING MEASURES

(95) In view of the above, i.e. inter alia the huge spare capacities of the Indian producers, their strong export orientation and growing presence at the doorstep of the Union market, the prices of their export sales to other third-country markets which were found to be below the normal value and also well below the prices of the Union industry during the RIP, as well as the relatively fragile situation of the Union industry, it is likely that injurious dumping would recur from India should the measures be allowed to lapse.

(96) All parties concerned were informed of the essential facts and considerations on the basis of which it is intended to recommend the maintenance of existing measures in their present form. They were also granted a period to make representations subsequent to this disclosure, but none made representations which would have justified altering the above findings. The claims relating to the disclosure of findings have been addressed in the respective recitals of this Regulation.

(97) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping duties imposed by Regulation (EC) No 1736/2004 should be maintained.

(98) Nevertheless, and without ignoring that the likelihood of recurrence of injurious dumping has been established, the present proceeding is characterised by particular circumstances, notably the long duration of the measures in force which have already been extended once, and the very limited quantities of actual imports from India as referred to in recitals 21 to 24. These facts should also be adequately reflected in the duration of the further extended anti-dumping measures, which should be three years. Following disclosure, the applicant stated that the measures should be extended for five years and that the reasoning set out above for a shorter extension would not be justified.

(99) Normally, the extension of measures pursuant to Article 11(2) of the basic Regulation applies for a period of five years. The investigation has concluded that the Union industry was still in a fragile situation at the end of the RIP; it has been in financial difficulties for a long period of time as established in the original investigation. Consequently, full recovery from the injurious dumping has not been achieved yet. However, a number of injury indicators showed that the imposition of measures has already allowed for some substantial improvements. From the analysis of this complex situation it is concluded that a full and solid recovery from any past effect of the injurious dumping is likely to take place within a shorter period of time than the normal five years. It was assessed that, considering the overall injury analysis and the likely market developments with the measures in place, a period of three years should be enough to the Union industry to complete its economic and financial recovery. For these reasons it does not appear necessary to maintain the measures for a longer period.

(100) Therefore, it is considered that an extension of the measures for the full five-year period is not fully supported by the facts established by the investigation, and that the duration of the measures should as a consequence be limited to three years.

(101) The individual anti-dumping duty rate specified in Article1 was established on the basis of the findings of the original investigation. Therefore, it reflects the situation found during that investigation with respect to the company concerned. This duty rate (as opposed to the country-wide duty applicable to 'all other companies') is thus exclusively applicable to imports of products originating in India and produced by the company concerned and thus by the specific legal entity mentioned. Imported products produced by any other company not specifically mentioned inArticle 1, including entities related to the one specifically mentioned, cannot benefit from this rate and shall be subject to the country-wide duty.

(102) 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 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, this Regulation will accordingly be amended by updating the list of companies benefiting from individual duties,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics, of polyethylene or polypropylene, other than binder and baler twine, measuring more than 50 000 decitex (5 g/m), as well as of other synthetic fibres of nylon or other polyamides or of polyesters, measuring more than 50 000 decitex (5 g/m), currently falling within CN codes 5607 49 11, 5607 49 19, 5607 50 11and 5607 50 19 and originating in India.

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

Company	Duty rate	TARIC additional code
Garware Wall Ropes Ltd	53,0 %	8755
All other companies	82,0 %	8900

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

Article 2

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

It shall apply for a period of three years.

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

Done at Brussels, 20 December 2010.

For the Council
The President
J. SCHAUVLIEGE

COUNCIL IMPLEMENTING REGULATION (EU) No 1243/2010

of 20 December 2010

imposing a definitive anti-dumping duty on imports of ironing boards originating in the People's Republic of China produced by Since Hardware (Guangzhou) Co., Ltd.

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community [1] ('the basic Regulation'), and in particular Article 9(4) thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) Following an anti-dumping investigation concerning imports of ironing boards originating in the People's Republic of China ('PRC' or 'the country concerned') and Ukraine ('the first investigation'), anti-dumping measures were imposed by Council Regulation (EC) No 452/2007 of 23 April 2007 [2]. That Regulation entered into force on 27 April 2007.

(2) It is recalled that the rate of the definitive anti-dumping duty imposed on ironing boards produced by the Chinese exporting producer Since Hardware (Guangzhou) Co., Ltd. ('Since Hardware') was 0 % while it ranged between 18,1 % and 38,1 % for other Chinese exporting producers. Following a subsequent interim review. these duty rates were increased to up to 42,3 % pursuant to Implementing Regulation of the Council (EU) No 270/2010 of 29 March 2010 amending Regulation (EC) No 452/2007 [3].

2. Initiation of the current proceeding

(3) On 2 October 2009, the Commission announced, by a notice published in the *Official Journal of the European Union* [4] ('notice of initiation'), the initiation of an anti-dumping investigation pursuant to Article 5 of the basic Regulation concerning imports into the Union of ironing boards originating in the PRC, limited to Since Hardware. In the notice of initiation, the Commission also announced the initiation of a review pursuant to Article 2(3) of Regulation (EC) No 1515/2001 ('review pursuant to Regulation (EC) No 1515/2001') in order to allow for any necessary amendment of Regulation (EC) No 452/2007 in the light of the WTO Appellate Body report entitled 'Mexico — Definitive Anti-dumping Measures on Beef and Rice' (AB-2005-6) [5] (the 'WTO Appellate Body report').

(4) The anti-dumping investigation was initiated following a complaint lodged on 20 August 2009 by three Union producers, Colombo New Scal S.p.A., Pirola S.p.A. and Vale Mill (Rochdale) Ltd. ('the complainants'), representing a major proportion of the total Union production of ironing boards.

(5) It is recalled that a new anti-dumping investigation based on Article 5 of the basic Regulation was initiated against Since Hardware rather than an interim review pursuant to Article 11(3) of the basic Regulation, in the light of the WTO Appellate Body report. This report stipulates in paragraphs 305 and 306 that an exporting producer not found to be dumping in an original investigation has to be excluded from the scope of the definitive measure imposed as a result of such investigation and cannot be made subject to administrative and changed circumstances reviews.

(6) Since Hardware submitted that the Commission could not initiate a new anti-dumping investigation based on Article 5 of the basic Regulation against one company as it thereby violated the general principle enshrined in GATT Article VI and the WTO Anti-dumping Agreement (WTO ADA) as well as that in the basic Regulation that anti-dumping proceedings are directed against imports of countries and not of individual companies. In particular, Since Hardware claimed that the Commission had breached Articles 9(3) and 11(6) of the basic Regulation by initiating an anti-dumping investigation based on Article 5 instead of Article 11(3) of the basic Regulation. Since Hardware also argued that in the absence of a direct effect of WTO rules in the Union legal order, the Commission could not decide to ignore the above provisions of the basic Regulation in order to implement a WTO ruling automatically, without prior modification by the Council of the basic Regulation.

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ L 109, 26.4.2007, p. 12.
[3] OJ L 84, 31.3.2010, p. 13.
[4] OJ C 237, 2.10.2009, p. 5.
[5] WT/DS295/AB/R, 29 November 2005.

(7) In this respect, it is acknowledged that anti-dumping proceedings are normally initiated against imports from a country and not from individual companies. However, the present case is an exception to the above rule in view of the following special circumstances. The WTO Appellate Body report provides in paragraphs 216 to 218 that Article 5.8 of the WTO ADA requires an investigative authority to terminate the investigation in respect of an exporter found not to have a margin above *de minimis* in an original investigation and, in paragraph 305, that the exporter consequently must be excluded from definitive anti-dumping measures and cannot be subject to administrative and changed circumstances reviews. It is true that the lack of direct effect of WTO rules means that the legality of measures adopted by the Union Institutions (the 'Institutions') cannot normally be reviewed in the light of the WTO agreements. However, this does not mean, in this particular case, that the Institutions must ignore WTO rules, and in particular the WTO Appellate Body report. Regulation (EC) No 1515/2001 was adopted specifically to allow the Institutions to bring a measure taken under the basic Regulation into conformity with the rulings contained in a report adopted by the Dispute Settlement Body as mentioned in recital (4) of Regulation (EC) No 1515/2001 without a prior amendment of the basic Regulation. Regulation (EC) No 1515/2001 thus, in particular, allows the Institutions to formally exclude exporters which have been found, during an earlier original investigation, not to be dumping, from the scope of the Regulation which was adopted at the end of that investigation. In order to do so, the review of Regulation (EC) No 452/2007 was opened pursuant to Regulation (EC) No 1515/2001.

(8) Moreover, none of the provisions of the basic Regulation exclude the opening of a new anti-dumping investigation based on Article 5 of the basic Regulation against one company. Also, Union legislation must, so far as possible, be interpreted in a manner that is consistent with international law, in particular where the provisions at issue are intended to give effect to an international agreement concluded by the Union. Since the WTO ADA on the one hand allows WTO members to impose duties to counteract harmful dumping, but on the other hand has been interpreted by the Appellate Body in the WTO Appellate Body report as not allowing reviews of companies found not to be dumping during an original investigation, the basic Regulation must therefore be interpreted to allow the Union to open an investigation based on Article 5 of the basic Regulation in a case like the present one.

(9) By Council Implementing Regulation (EU) No 1241/2010 of 20 December 2010 (*) Since Hardware was excluded from the scope of Regulation (EC) No 452/2007.

(*) See page 8 of this Official Journal.

(10) Therefore, in view of the special circumstances of the case, the initiation of an anti-dumping investigation based on Article 5 of the basic Regulation against Since Hardware is lawful.

3. **Parties concerned**

(11) The Commission officially advised Since Hardware, the importers and Union producers known to be concerned, the representatives of the country concerned, and producers in potential analogue countries of the initiation of the proceeding. The interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

(12) In order to allow Since Hardware to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), if it so wished, the Commission sent a claim form to the exporting producer. The Commission also sent a questionnaire to Since Hardware. The exporting producer submitted a filled-in MET/IT claim and replied to the questionnaire.

(13) In view of the high number of Union producers, sampling was envisaged in the notice of initiation for the determination of contribution to injury, in accordance with Article 17 of the basic Regulation. Five Union producers came forward and provided the requested information for sampling within the deadlines set out in the notice of initiation.

(14) From the above five Union producers, only the three complainants formed part of the Union industry in the first investigation. Given the specificities of this case, as set out in recitals (57) to (60), it was decided to send questionnaires only to these three Union producers while the other two Union producers were requested to submit any additional comments which might assist the Commission in ascertaining whether imports of the products manufactured by Since Hardware have caused injury to the Union industry. All three complainant Union producers submitted questionnaire replies. The other two Union producers did not submit further comments on the proceeding.

(15) The Commission also sent questionnaires to all known producers in potential analogue countries and to all importers known to be concerned and not related to Since Hardware. As concerns unrelated importers in the Union, there were initially two companies cooperating in the investigation. However, one of them was not in the position to continue cooperation. The other importer was the same company as one of the non-complainant Union producers. It submitted a reply to the importers' questionnaire. In addition, one trade association also cooperated in the investigation and submitted comments.

(16) The Commission sought and verified all the information it deemed necessary for the purpose of assessing MET and for the determination of dumping, contribution to injury and Union interest. A verification visit was carried out at the premises of Since Hardware in Guangzhou in the PRC and of Vale Mill (Rochdale) Ltd. in the UK.

(17) The Commission informed interested parties that given the complex legal background linked to the present investigation (see recital (3) *et seq*. above), it considered it more appropriate not to impose provisional measures in this case but to continue the investigation. No objection was raised by any party.

(18) Interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty and were given an opportunity to comment. The comments submitted by the parties were considered and, when appropriate, the findings have been modified accordingly.

4. **Investigation period**

(19) The investigation of dumping and price undercutting covered the period from 1 July 2008 to 30 June 2009 (the 'investigation period' or 'IP'). The examination of import volumes of Since Hardware products relevant for the assessment of the contribution to injury covered the period from 1 January 2006 to the end of the IP (the 'period considered'). However, because of the specificities of this case – namely that another original investigation concerning the same product and third country took place only some years ago, and because the duties resulting from that investigation are still in place - in the injury analysis reference to the investigation period of that earlier investigation will also be made ('IP of the first investigation').

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(20) The product concerned is ironing boards, whether or not free-standing, with or without a steam soaking and/or heating top and/or blowing top, including sleeve boards, and essential parts thereof, i.e. the legs, the top and the iron rest originating in the PRC and produced by Since Hardware (Guangzhou) Co., Ltd. ('the product concerned'), currently falling within CN codes ex 3924 90 00, ex 4421 90 98, ex 7323 93 90, ex 7323 99 91, ex 7323 99 99, ex 8516 79 70 and ex 8516 90 00.

(21) The investigation showed that there are different types of ironing boards and their essential parts depend mainly on their construction and size, their construction material and accessories. However, all different types have the same basic physical characteristics and uses.

(22) The exporting producer claimed that the essential parts of ironing boards should not be covered by the investigation because ironing boards and their essential parts (i.e. legs, tops and iron rests) do not constitute a single product and therefore could not be part of the same product concerned in one investigation. This argument was not confirmed by the investigation. It was found in the present investigation that essential parts of ironing boards should be covered since legs, tops and iron rests determine the characteristics of the finished product and cannot have an end-use other than being incorporated into the final product (i.e. the ironing board) and, as such, they are not a distinct product. This is in line with a number of other investigations in which finished products and key components were considered as one single product. Consequently, similarly to the first investigation, all existing types of ironing boards and their essential parts thereof are considered as one product for the purposes of this investigation.

2. **Like product**

(23) No differences were found between the product concerned and the ironing boards and the essential parts thereof produced by the complainants and other cooperating Union producers and sold on the Union market which finally also served as an analogue country. They both share the same physical characteristics and uses and are interchangeable one with the other.

(24) Consequently, ironing boards and the essential parts thereof produced and sold in the Union and the product concerned are considered like products within the meaning of Article 1(4) of the basic Regulation.

C. **DUMPING**

1. **Market Economy Treatment (MET)**

(25) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of Article 2 of the basic Regulation for those producers which were found to meet the criteria laid down in Article 2(7)(c) thereof, i.e. where it is shown that market economy conditions prevail in respect of the manufacture and sale of the like product. Briefly, and for ease of reference only, these criteria are set out in a summarised form below:

— business decisions are made in response to market signals, and without significant State interference; costs of major inputs substantially reflect market values;

— firms have one clear set of basic accounting records which are independently audited in line with International Accounting Standards ('IAS') and are applied for all purposes;

— there are no significant distortions carried over from the former non-market economy system;

— bankruptcy and property laws guarantee stability and legal certainty;

— currency exchanges are carried out at market rates.

(26) Since Hardware requested MET pursuant to Article 2(7)(b) of the basic Regulation and was invited to complete a MET claim form.

(27) The investigation established that Since Hardware did not meet the MET criterion referred to in the first indent of Article 2(7)(c) (criterion 1) of the basic Regulation as regards costs of major inputs. Moreover, the investigation established that Since Hardware did not meet the MET criterion referred to in the second indent of Article 2(7)(c) (criterion 2) of the basic Regulation. The major MET findings are set out below.

(28) As regards criterion 1, i.e. that business decisions are made in response to market signals, without significant State interference, and costs reflect market values, it is noted that Since Hardware claimed to have started to purchase its main raw materials (steel products) on the domestic Chinese market, unlike in the investigation period in the first investigation when Since Hardware imported these raw materials. Therefore, it was examined if the Chinese domestic market for the main raw materials could be considered as reflecting market values.

(29) It was established that after the investigation period in the first investigation, i.e. after 2005, export restrictions were imposed by the State on several steel products, including the main raw materials for the production of ironing boards, i.e. steel plate, steel pipes and steel wire. It is noted that the cost of these raw materials represent a significant part of the total raw material cost of the product concerned. The imposition of export taxes decreased the incentive to export and thereby increased the volumes available domestically, leading in turn to lower prices. However, in June 2009 (at the end of the IP), the Chinese policy towards the steel sector appears to have changed again: the export tax was abolished and a new VAT rebate on steel products was introduced which creates a more favourable environment for exports. The new policy which no longer discourages exports coincides with the drop in steel prices on other world markets and with the alignment of Chinese domestic prices with international steel prices, i.e. a situation of no danger of increased prices in the domestic market. These repeated changes in the steel export tax/VAT regime over time apparently took place in order to regulate the Chinese domestic steel market and prices. Thus, the State continued to exercise an important influence on the domestic steel market and, thus, the steel prices in the PRC for these particular raw materials do not freely follow world market trends.

(30) Indeed, many studies and reports as well as publicly available accounts of a number of steel producers [1] confirm that the Chinese State is actively supporting the development of the steel sector in the PRC.

(31) As a consequence, domestic steel prices in the PRC were, during the first half of the investigation period, far below prices on other sizeable world markets, notably steel prices in North America and North Europe [2], and these price differences cannot be explained by any competitive advantage in the production of steel. In the second half of the IP, world steel prices dropped significantly in Europe and in North America while Chinese domestic prices dropped to a much lesser extent. Thus the price difference between Chinese and international steel prices practically disappeared by the end of the IP. However, the measures taken by the Chinese government to regulate the Chinese steel market have essentially lead to a situation where the raw material prices continue to be the result of State intervention that has a direct influence on company decisions when acquiring raw materials.

(32) Given that Since Hardware purchased its raw materials during this IP on the Chinese domestic market, it was benefiting from these artificially low and distorted prices of steel during the IP.

[1] For instance 'The State-Business Nexus in China's Steel Industry — Chinese Market Distortions in Domestic and International Perspective' by Prof. Dr. Markus Taube & Dr. Christian Schmidkonz of THINK!DESK China Research & Consulting dated 25 February 2009; the study prepared by the EU Chamber of Commerce in China with Roland Berger focusing on overcapacities which are the result inter alia of the state intervention dated November 2009 (http://www.euccc.com.cn/view/static/?sid=6388); 'Money for Metal: A detailed Examination of Chinese Government Subsidies to its Steel Industry' by Wiley Rein LLP, July 2007; 'China Government Subsidies Survey' by Anne Stevenson-Yang, February 2007; 'Shedding Light on Energy Subsidies in China: An Analysis of China's Steel Industry from 2000-2007' by Usha C.V. Haley; 'China's Specialty Steel Subsidies: Massive, Pervasive and Illegal' by the Specialty Steel Industry of North America; 'The China Syndrome: How Subsidies and Government Intervention Created the World's Largest Steel Industry' by Wiley Rein & Fielding LLP, July 2006.

[2] Source: Steel Business Briefing.

(33) It was thus concluded that major inputs of Since Hardware do not substantially reflect market values. Consequently, it was concluded that Since Hardware has not shown that it fulfils criterion 1 set out in Article 2(7)(c) of the basic Regulation and, thus, could not be granted MET.

(34) Moreover, the company could not demonstrate that it has one clear set of basic accounting records which are independently audited in line with IAS and applied for all purposes, as the accounts, and in particular the capital verification report, were silent on an important transaction that happened during the IP. Moreover, the auditors did not comment on this important transaction. In addition, a booking of a significant amount has been found which did not respect the principle of fair representation of accounts under IAS. The auditor did not comment on this either. It was thus concluded that the company also failed to demonstrate that it fulfils criterion 2 set out in Article 2(7)(c) of the basic Regulation.

(35) Since Hardware, the authorities of the country concerned and the Union industry were given an opportunity to comment on the above findings. Comments were received from Since Hardware and the Union industry.

(36) Since Hardware put forward three main arguments on the MET finding. Firstly, it stated that the MET decision was made after the Commission had requested and obtained the company's domestic sales and costs which would have been in breach of the second subparagraph of Article 2(7)(c) of the basic Regulation. Second, although Since Hardware did not disagree with the evolution of steel prices as such, it claimed that the Chinese raw material prices were still in line with prices in other countries and that the price paid by Since Hardware on the Chinese market was above the prices of several steel markets in market-economy countries world-wide. In this context, the company also questioned the relevance of the North European and North American steel market prices to which a comparison was made. Since Hardware stated that prices of other international markets such as the Turkish or Ukrainian export prices would also be available, and that these were lower than the domestic prices in the PRC. Third, Since Hardware argued that MET could not be denied to a company active in one industry (ironing boards) for factors relating exclusively to another industry (steel) and that the Commission could not offset subsidies in the upstream market through the rejection of a MET claim in the downstream market. Moreover, Since Hardware claimed that it was an unreasonable burden of proof to require a small ironing boards company to provide evidence that the Chinese steel industry is not subsidised.

(37) Concerning the first argument of Since Hardware, it is noted that pursuant to Article 2(7)(c) of the basic Regulation, a determination whether Since Hardware meets the five relevant criteria shall be made and this determination shall remain in force throughout the investigation. As the present investigation is limited to one exporting producer, the Commission verified the MET claim and the anti-dumping questionnaire reply at the same time, in the framework of the same on-spot investigation. The MET claim was investigated on its own merits and irrespective of the effects which it might have on the calculation of the dumping margin. In fact, detailed dumping calculations for Since Hardware could not be made before the MET determination in the absence of data from an appropriate market economy country. Hence there was no breach of Article 2(7)(c) of the basic Regulation.

(38) Concerning the second claim of Since Hardware, the investigation revealed that although the price difference diminished in the second half of the IP and was practically eliminated at the end of the IP, it is maintained that this alignment of Chinese prices to international market prices was also the result of State intervention. Indeed, in 2009, when prices on international steel markets had plummeted due to the financial and economic crises, the State abolished the export taxes previously imposed, thereby allowing for an alignment of domestic prices with international prices without the danger of a significant price increase for these important raw materials on the domestic market. This shows that the market for the raw materials necessary to produce the product concerned continued to be the subject of State intervention also in the second half of the IP.

(39) It is noted that the additional price information submitted by Since Hardware supported the finding that the main raw materials for the production of ironing boards in the first half of the IP were on average significantly cheaper on the Chinese domestic market than on other sizeable world markets. A comparison was made between Chinese domestic steel prices and domestic prices on other markets which are comparable to the Chinese market in terms of volume (EU, USA and Canada) as they have a high consumption of steel and there are several active producers. Other markets suggested by Since Hardware such as Turkey and Ukraine (domestic and export markets) have not been found to be representative in terms of size and/or number of producers of these particular raw materials and thus not comparable to the Chinese domestic market.

(40) It is also recalled that the basic Regulation puts the burden of proof on the company that claims MET to demonstrate that it fulfils the relevant criteria. As the Commission established a number of elements pointing to the cost of major inputs not reflecting market values, it is consequently for the company to come up with elements that would refute this.

(41) Furthermore, the basic Regulation in Article 2(7)(c) provides explicitly for the possibility to examine whether decisions of firms regarding, inter alia, inputs are made in response to market signals reflecting supply and demand and without significant State interference and whether costs of major inputs substantially reflect market values. Consequently, if a company does not fulfil these conditions, as outlined above, MET can be refused. It is also noted that Since Hardware used to import its raw materials during the first investigation but switched to Chinese sourcing due to lower prices on the Chinese market.

(42) With regard to the identified accounting issues, Since Hardware claimed that they did not relate to Since Hardware's accounts and, in any event, did not mean that the company did not fully comply with international accounting standards. Since Hardware also claimed that the accounting mistake identified was immaterial.

(43) The fact that the Chinese companies may not be subject under their domestic law to comply with certain accounting standards has no bearing on whether their accounts may be assessed in the light of those standards for the purpose of a MET determination. The fair presentation of financial statements is a basic IAS and it is up to the company to show that any infringement of those standards does not constitute a breach of the second criterion of Article 2(7)(c) of the basic Regulation. This has not been done either for the transaction in question or the wrong booking. In any event, the latter cannot be considered as immaterial as represents a sizeable percentage of total exports to the Union in the investigation period.

(44) To conclude, none of the arguments raised by Since Hardware were such as to lead to a different assessment of the findings. On the basis of the above, the findings and the conclusion that MET should not be granted to Since Hardware were confirmed. It is thus definitively concluded that MET should not be granted to Since Hardware.

2. **Individual treatment (IT)**

(45) Pursuant to Article 2(7) of the basic Regulation, a country-wide duty, if any, is established for countries falling under that Article, except in those cases where companies are able to demonstrate that they meet all criteria for individual treatment set out in Article 9(5) of the basic Regulation. Briefly, and for ease of reference only, these criteria are set out below:

— in the case of wholly or partly foreign owned firms or joint ventures, exporters are free to repatriate capital and profits;

— export prices and quantities, and conditions and terms of sale are freely determined;

— the majority of the shares belong to private persons; State officials appearing on the board of directors or holding key management positions shall either be in minority or it must be demonstrated that the company is nonetheless sufficiently independent from State interference;

— exchange rate conversions are carried out at the market rate; and

— State interference is not such as to permit circumvention of measures if individual exporters are given different rates of duty.

(46) Since Hardware, as well as requesting MET, also claimed IT in the event of it not being granted MET.

(47) The investigation showed that Since Hardware met all the above criteria and it is concluded that IT should be granted to Since Hardware.

3. **Normal value**

(48) According to Article 2(7) of the basic Regulation, in case of imports from non-market-economy countries and to the extent that MET could not be granted, for countries specified in Article 2(7)(b) of the basic Regulation, normal value has to be established on the basis of the price or constructed value in a market economy third country (analogue country).

(49) In the notice of initiation, the Commission indicated its intention to use the United States of America ('USA') as an appropriate analogue country for the purpose of establishing normal value for the PRC, but no producer from the USA cooperated in the investigation. Subsequently, Turkish and Ukrainian companies were also approached but there was no cooperation from them either.

(50) As no third country producer cooperated, Union producers were approached on the basis of Article 2(7)(a) of the basic Regulation and one of them cooperated.

(51) No comments on using the information obtained from a Union producer for establishment of normal value were received from Since Hardware. Thus, the normal value was established pursuant to Article 2(7)(a) of the basic Regulation on the basis of verified information received from the cooperating Union producer.

(52) The domestic sales of the Union producer of the like product were found to be representative in terms of volume when compared to the product concerned exported to the Union by Since Hardware.

(53) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for Since Hardware was established on the basis of verified information received from the sole cooperating Union producer, i.e. on the basis of prices paid or payable on the Union market for comparable product types, where these were found to be made in the ordinary course of trade, or on constructed values, where no domestic sales in the ordinary course of trade for comparable product types were found, i.e. on the basis of the cost of manufacturing of ironing boards manufactured by the Union producer plus a reasonable amount for selling, general and administrative (SG&A) expenses and for profit. The profit margin used is in line with the one used in the first investigation.

4. **Export price**

(54) In all cases the product concerned was directly sold for export to independent customers in the Union, and therefore, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of prices actually paid or payable for the product when sold for export to the Union.

5. **Comparison**

(55) The normal value and export price were compared on an ex-works basis. In order to ensure a fair comparison between normal value and export price, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were claimed and demonstrated to affect prices and price comparability. On this basis, allowances for transport costs, insurance, handling charges, credit costs and indirect taxes were made where applicable and justified.

6. **Dumping margin**

(56) As provided for under Article 2(11) of the basic Regulation, the weighted average normal value by type was compared with the weighted average export price of the corresponding type of the product concerned. This comparison showed the existence of dumping.

(57) The dumping margin of Since Hardware as a percentage of the net, free-at-Union-frontier price was found to be 51,7 %.

D. **INJURY**

1. **General**

1.1. *Specificities of this investigation*

(58) The examination of material injury suffered by the Union industry is normally based on all dumped imports originating in one or more exporting countries, in accordance with Article 3(2) of the basic Regulation.

(59) However, in this case, a full analysis of injury in respect of all imports of ironing boards originating, *inter alia*, in the PRC was already carried out in the framework of the first investigation. Indeed, in that investigation the Commission established that dumped imports of ironing boards originating, *inter alia*, in the PRC had caused material injury to the Union industry. These findings, made in accordance with the provisions of Article 3 of the basic Regulation, were based on an assessment of the effects of all imports originating in the PRC and Ukraine, with the sole exclusion of imports of ironing boards produced by Since Hardware which had been found to be sold at non-dumped prices.

(60) As a result, during the IP, anti-dumping duties were applicable to all imports from those countries (only Since Hardware was subject to a zero duty). As the Union industry was already protected against the harmful effects of these imports during the IP, it was impossible to perform a normal full injury analysis. Therefore, a specific approach was developed, adapted to the specificities of this investigation, in which the Institutions focused on particular injury indicators. The information requested from the Union industry focused on whether Since Hardware had been undercutting its prices and on what was the profitability of those prices. Furthermore, the Union industry was invited to provide any other information that, in its view, indicated that Since Hardware's exports to the Union had caused it injury.

(61) In this context, the Commission examined i) the development of dumped imports of ironing boards produced by Since Hardware; ii) whether those imports had been made at prices undercutting the sales prices of the Union industry and what was the profitability of the Union industry prices; and iii) any information provided by the Union industry indicating that Since Hardware's exports to the Union had caused it injury, e.g. concerning the Union industry's losses of customers and orders to Since Hardware and the profitability of their Union sales during the IP.

1.2. *Definition of the Union industry*

(62) The complaint was lodged by three Union producers representing a major proportion of the total known Union production of ironing boards, i.e. in this case approximately 40 % of the estimated Union production. None of the other Union producers opposed the initiation of the present proceeding.

(63) As stated in recital (11), from the five producers which replied to the sampling questions only the three complainants formed part of the Union industry in the first investigation. As stated above, in light of the specificities of this case, questionnaires were sent only to the three selected Union producers that also formed part of the Union industry in the first investigation.

1.3. *Union consumption*

(64) Based on information provided by the Union industry, it appears that the consumption of ironing boards in the Union has remained substantially stable since the publication of Regulation (EC) No 452/2007, having only slightly increased in proportion with the population increase of the Union due to the latest Union enlargement in 2007. The estimated Union consumption thus amounted to about 8,5 to 9 million units during the period considered.

1.4. *Union production*

(65) Ironing board producers can be found in several Member States including Belgium, the Czech Republic, France, Germany, Italy, Poland, Portugal, the Netherlands, Spain and the United Kingdom. The total volume of annual Union production of ironing boards can be estimated at above 5 million units.

2. **Imports from Since Hardware**

2.1. *Status of imports*

(66) As described in recitals (22) to (54), this investigation has shown that imports from Since Hardware have been dumped on the Union market.

2.2. *Volume of dumped imports*

(67) Over the period considered, Since Hardware's exports to the Union increased strongly, by 64 % [1]. On the other hand, the imports of other Chinese and Ukrainian producers have constantly decreased following the imposition of provisional duties in 2006 (confidential data based on Member States' reports in accordance with Article 14(6) of the basic Regulation):

Volume of imports of ironing boards produced by Since Hardware

Indices for confidentiality reasons	2006	2007	2008	IP
Since Hardware	100	119	176	164
PRC (excluding Since Hardware) and Ukraine	100	94	87	83

2.3. *Market share of dumped imports*

(68) Given that Union consumption has remained substantially stable over the period considered except for the slight increase between 2006 and 2007, as mentioned in recital (61), the market share of Since Hardware has developed in line with its import volumes shown. It should be noted that in 2006, the Union market share of Since Hardware represented about one fifth of the total market share of the other Chinese and Ukrainian producers, whereas by the IP, Since Hardware's market share amounted to almost half of the total market share of the other Chinese and Ukrainian producers. Both the substantial increase of Since Hardware's import volume and its market share can be explained by the fact that it has been the only Chinese producer that has had a zero anti-dumping duty and therefore its market opportunities have actually improved since the imposition of provisional duties in 2006. This can also be confirmed by the pronounced opposite, positive development of their import volumes as compared to the deteriorating trend of the import volumes of the other Chinese and Ukrainian producers. Indeed when looking at the period considered, the following converse evolution of market shares has been found:

Market share of imports of ironing boards produced by Since Hardware

Indices for confidentiality reasons	2006	2007	2008	IP
Since Hardware	100	113	166	155
PRC (excluding Since Hardware) and Ukraine	100	89	82	79

(69) It is clear from the above tables that Since Hardware has managed to significantly increase its import volumes and market share [2].

[1] Although this finding is already sufficient – together with the other findings relating to the period considered – to find injury, it is noted that it is confirmed by the fact that when compared to the IP of the first investigation, the volume of imports of ironing boards produced by Since Hardware - which was already significant during the aforementioned IP - has approximately doubled by the current IP.

[2] Although also this finding is already sufficient – together with the other findings relating to the period considered – to find injury, it is noted that it is confirmed by the fact that when compared to the IP of the first investigation, the market share of Since Hardware grew by 89 % by the current IP.

(70) In addition, the Union industry has claimed to have lost numerous client orders to Since Hardware in the past years. Indeed clear indications have been found that certain important customers of the Union industry have changed suppliers, sourcing more products from Since Hardware and fewer from the Union industry than before.

(71) For instance, the data gathered by the Commission in the first investigation show that a Union producer sold a significant number of pieces to a Union customer in the IP of the first investigation (2005), whereas in the current investigation it has stated that it sold considerably less (between 10 % and 30 % of that quantity) to the same customer in the current IP. By contrast, Since Hardware sold a small number of pieces to this Union customer in the IP of the first investigation, but sold much more (between 300 % and 500 % of that quantity) to that customer during the IP of the current investigation.

(72) Furthermore, the data gathered by the Commission in the first investigation show that the sales of an Union producer to another Union customer in the IP of the first investigation dropped considerably (between 30 % and 50 %) in the current IP. Again by contrast, whereas Since Hardware sold nothing to this customer in the IP of the first investigation, it sold a substantial quantity in the current IP. That quantity is between 60 % and 80 % of the quantity by which the Union producer's sales to that customer went down between the IP of the first investigation and the current IP.

2.4. *Undercutting*

(73) For the purpose of analysing price undercutting, the import prices of Since Hardware were compared to the Union industry's prices, on the basis of weighted averages for comparable product types during the IP. The Union industry's prices were adjusted to an ex-works level, and compared to CIF Union frontier import prices, plus customs duties where applicable. This price comparison was made for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts.

(74) The average undercutting margin found for Since Hardware, expressed as a percentage of the Union industry's price, is 16,1 %.

(75) It is noted that the Union industry's prices were found to be overall loss-making in the IP.

3. **Conclusion on injury**

(76) The above-mentioned facts show that the Union industry suffered injury due to the dumped quantities sold by Since Hardware on the Union market which might otherwise have been supplied by the Union industry.

E. **CAUSATION**

(77) As shown above, Since Hardware offered its products, during the IP, at heavily dumped prices which strongly undercut the Union industry's prices. As a result, it succeeded to sell quantities during the IP which were much higher than, for instance, in 2005 or 2006. Since Hardware thus caused the injury which was found above.

(78) One importer stated that the EUR/USD exchange rate was the cause of the strong presence of Since Hardware ironing boards on the Union market rather than dumping practices. However, if this was true, all imports invoiced in USD would have been advantaged in their competition with goods invoiced in euro. Instead, as set out in recitals (64) and (65), imports from other Chinese and Ukrainian producers, also selling in USD, have constantly decreased between 2006 and the IP i.e. in the period during which the EUR/USD exchange rates have every so often changed, in contrast with the significant increase of imports from Since Hardware throughout the same period. Therefore this claim was rejected.

(79) No further comments were received. It is therefore concluded that no factor appears to exist that could break the causal link between the dumped imports from Since Hardware and their contribution to injury which was found above.

F. **UNION INTEREST**

(80) As mentioned in recital (12), one trade association cooperated in the investigation. In addition, the cooperating Union producers and importers were also asked to comment on whether in their view the imposition of a possible anti-dumping duty on Since Hardware would change the conclusion regarding Union interest reached in recitals (51) to (62) of Regulation (EC) No 452/2007.

(81) According to the Union producers, the imposition of an anti-dumping duty on Since Hardware would not change the conclusions on Union interest as established by Regulation (EC) No 452/2007.

(82) The cooperating trade association stated that imposing an anti-dumping duty on Since Hardware would normally have a negative impact on the profitability of the importers and retailers or distributors concerned. However, according to the trade association, their

members – including large retail stores – also confirmed that the product under investigation is one upon which price increases such as those resulting from anti-dumping measures can be passed on without impacting substantially on consumers' perception. Therefore, no concrete element was submitted which would change the conclusions on Union interest as established by the above two Regulations.

(83) In view of the above it is concluded that the imposition of an anti-dumping duty on Since Hardware would leave the conclusions regarding Union interest reached in recitals (51) to(62) of Regulation (EC) No 452/2007 substantially unaffected. No reasons were put forward as to why that analysis would not apply, *mutatis mutandis*, to the imposition of an anti-dumping duty on Since Hardware.

G. **COMMENTS FROM INTERESTED PARTIES FOLLOWING DISCLOSURE**

(84) Written and oral representations were made following final disclosure of the findings from the Union industry and from Since Hardware. The Union industry agrees with the findings disclosed. Since Hardware's comments were examined, however, none of them were such as to alter the above conclusions. The main arguments raised by Since Hardware were as follows.

(85) Since Hardware reiterated its earlier claims concerning the alleged illegality of initiating an original investigation against one company and concerning the allegedly incorrect MET findings. These claims have been described and rebutted in recitals (4) to (10) and (33) to (41). Regarding some detailed points made by Since Hardware on the first point (a number of which were made during a hearing) the following can be observed:

(86) i) Since Hardware argued that the last sentence of Article 9(3) of the basic Regulation is not a provision implementing any provision of the WTO AD Agreement, and as such cannot be affected by any findings made by a WTO Panel. However, Article 9(3) does not *oblige* the Institutions to use a review to investigate claims of dumping against companies for whom, during an original investigation, *de minimis* or no dumping was found. It merely foresees that these 'may' be investigated in any subsequent review carried out pursuant to Article 11of the basic Regulation. It is clear, however, that after the adoption of that provision, the WTO Appellate Body report, has established that doing so would violate the WTO ADA. Therefore, it is possible for and incumbent upon [1] the Institutions to use the flexibility that the word 'may' provides, and not to use a review to investigate such claims. The same conclusion has already been drawn in at least one earlier investigation [2].

(87) ii) Since Hardware repeated that in its view an original investigation against one company would not be possible under the basic Regulation. On top of what has been said on this in recitals (5) and (8) above, the following can be noted. It is true that many of the provisions quoted by Since Hardware are phrased in a manner which reflects a normal situation, namely an original investigation against a country as a whole. However, Since Hardware has not been able to point to any provision which prohibits an original investigation against only one company in the specific circumstances of this case.

(88) iii) Since Hardware argued that Regulation (EC) No 1515/2001 permits the bringing into conformity with WTO dispute settlement rulings of existing anti-dumping measures, but nothing else. This, firstly, means, that Since Hardware does not object to Article 1 of Regulation (EC) No 1515/2001, which formally excludes Since Hardware from the scope of Regulation (EC) No 452/2007 in a manner which makes clear that on the basis of that Regulation no duty will apply to its imports. Regarding Since Hardware's allegation that Regulation (EC) No 1515/2001 permits nothing else, it should however be emphasised that this Regulation is based on the basic Regulation. In particular, it is based on the fact, as explained above, that nothing in that Regulation prohibits conducting an original investigation against only one company in the specific circumstances of this case. As suggested by Since Hardware, certain language in the disclosure which may have been confusing on this point has been removed.

(89) iv) Since Hardware claimed to be discriminated against, since in its view the findings in the WTO Appellate Body report are equally applicable to companies that received a zero duty in a review investigation. The most important point that can be made here is that the WTO Appellate Body report simply does not concern that situation. Those companies are therefore in a different situation.

(90) v) Since Hardware argued that the Commission was conducting a *de facto* review of its zero duty. This view cannot be accepted. Firstly, contrary to what Since Hardware alleges, the injury analysis conducted above is not limited to confirming that during the first investigation injury was found. On the contrary, it focuses on

[1] In light of the obligation to interpret Union law as much as possible in conformity with the Union's international obligations.

[2] Steel welded tubes from *inter alia* Turkey, concerning the company Noksel, OJ L 343, 19.12.2008, recital (143).

the actual detrimental effects of Since Hardware's behaviour after that investigation on the Union industry, whilst taking into account that a normal injury analysis is not possible in this case. Secondly, the fact that the duty will expire earlier than after the normal five years does not mean that the investigation is a *de facto* review. In quite a number of investigations, for various reasons, durations of less than five years have been adopted. In this case, the Institutions consider that, whereas on the one hand Since Hardware should not derive any benefits from having started dumping after the first investigation, it should, on the other hand, not suffer any unjustified negative effects. For instance, should, no expiry review be requested for Regulation (EC) No 452/2007, it would appear discriminatory to continue the duty on Since Hardware after the expiry of that Regulation.

(91) vi) Since Hardware argued that its rights are infringed by the choice for an original investigation, because if it had been investigated by means of a review, Article 11(9) of the basic Regulation would apply (there is an obligation, in a review, to use the same methodology as that used in the original investigation). However, Since Hardware has not pointed to any issue which would indicate that in this investigation the Institutions used a methodology which was different to that used in the first investigation Secondly, even if Since Hardware could point to the use of a different methodology, this would be a result of the fact that the WTO Appellate Body report leads to the conclusion that it was incumbent on the Institutions to not investigate the claims against Since Hardware by means of a review.

(92) vii) Finally, Since Hardware suggested that the Institutions should have investigated the claims against it by means of a review, and then, in case a duty were imposed upon it and the PRC would successfully challenge this in WTO dispute settlement, remove that duty but only prospectively. However, it would clearly be inappropriate to knowingly violate WTO rules, whereas, like in this case, a method of investigating the case can be found which is in line with the basic Regulation, interpreted in light of WTO rules. Moreover, without prejudice to the validity of such claims, it is clear that such a course of action could lead to damage claims by the companies concerned against the Institutions.

(93) Regarding the MET findings, Since Hardware argued that it had an excessive burden to prove that it complied with the criteria for MET, in particular as far as State interference in the prices of its main raw materials were concerned. However, MET is an exception to the general rule and any derogation from, or exception to, a general rule must be interpreted strictly. MET can only be granted if it is shown that market economy conditions prevail for the exporting producer in question. As already mentioned in recital (37), the burden of proof lies with the exporting producer wishing to avail itself of market economy status. The claim must contain sufficient evidence. There is no obligation for the Commission to prove that the exporting producer does not satisfy the MET criteria. The Commission has to assess whether the evidence supplied by the exporting producer is sufficient to show that the MET criteria are fulfilled. As the Commission established a number of elements pointing to significant State interference concerning the cost of major inputs, it is consequently for the company to demonstrate that this State interference does not exist and/or that it did not affect the company's decisions (criterion 1 of Article 2(7)(c) of the basic Regulation). In any event, as set out in recitals (31) and (40), Since Hardware has also failed to show that it fulfils criterion 2 of Article 2(7)(c) of the basic Regulation concerning accounting for which it has claimed an excessive burden to prove.

(94) Further to the above, Since Hardware made two new claims in its comments on the final disclosure document. First, Since Hardware claimed that the normal value should have been adjusted in accordance with Article 2(10)(k) of the basic Regulation because the raw materials (steel products) in the PRC are lower-priced than in the analogue country market. This claim cannot be accepted. Indeed, it is recalled that Since Hardware was denied MET. Consequently, the normal value is established in accordance with Article 2(7)(a) of the basic Regulation on the basis of the price or constructed value in a market economy third country. This necessarily implies that prices and costs in the PRC are considered to be unreliable for the establishment of normal value and may not be used to determine or otherwise adjust the latter. It is further noted that an adjustment under Article 2(10)(k) of the basic Regulation as claimed by Since Hardware cannot be made if it is not shown that customers would consistently pay different prices for the like product on the domestic market, in this case in the analogue country market, because of a difference in raw material prices. Since Hardware has not demonstrated any such price difference.

(95) Second, Since Hardware has claimed that the Commission did not carry out a sufficiently detailed injury analysis in the present investigation. It also claimed that in line with Article 3(3) of the basic Regulation, the Commission should have investigated all injury indicators. It should be noted however, that the Commission has found (see in particular part D) that dumped imports from Since Hardware substantially increased over the period considered while their sales prices were found to be largely undercutting those of the Union industry. This finding is based on an objective examination of positive evidence. It thus complies with Article 3 of the basic Regulation.

(96) It is true that not all of the factors set out in Article 3(5) of the basic Regulation have been examined. However, it should be recalled that in a situation where Since Hardware was not yet found to be dumping, namely during the first investigation, it was already found, by

examining those factors, that the dumped imports from the PRC caused injury. Examining those factors once again would have been of no use, since even assuming that all those factors would now have become positive, that would be (at least in part) due to the fact that the Union industry is now protected against all [1] dumped exports from the PRC and Ukraine (except those from Since Hardware). Moreover, no factor has been identified that would break the causal link between the dumped imports from Since Hardware and their negative effects on the Union industry. Finally, not imposing measures against Since Hardware would be discriminatory vis-à-vis the exporting producers subject to the measure imposed following the first original investigation.

H. DEFINITIVE ANTI-DUMPING MEASURES

(97) In view of the above conclusions reached with regard to dumping, resulting contribution to injury, causation and Union interest, definitive measures on imports of the product concerned from the PRC, produced by Since Hardware, should be imposed.

1. Injury elimination level

(98) The level of the definitive anti-dumping measures should be sufficient to eliminate the injury to the Union industry caused by the dumped imports, without exceeding the dumping margins found. As stated in recital (72), the Union industry's prices were found to be overall loss-making during the IP. Therefore, it would not be appropriate to base the duty merely on the margin of undercutting.

(99) When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Union industry to cover its costs and obtain a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports. The pre-tax profit margin used for this calculation was 7 % of turnover. As mentioned in recital (63) of Regulation (EC) No 452/2007, it was demonstrated in the course of the first investigation that this was the profit level that could reasonably be expected in the absence of injurious dumping. On this basis, a non-injurious price was calculated for the like product of the Union industry. For this purpose, information was collected from the Union industry to calculate the weighted average of their actual profit/loss margin during the current IP. The non-injurious price has been obtained by deducting the thus calculated actual profit/loss margin of the Union industry from their sales prices and adding the above mentioned target profit margin of 7 %.

(100) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the undercutting calculation, with the average non-injurious price of products sold by the Union industry on the Union market. Any difference resulting from this comparison was then expressed as a percentage of the average import CIF value. An injury elimination level of 35,8 % was thus established, which was below the dumping margin found for Since Hardware.

2. Exclusion of Since Hardware from the definitive anti-dumping measure imposed by Regulation (EC) No 452/2007

(101) In the context of the review pursuant to Regulation (EC) No 1515/2001 and in the light of the WTO Appellate Body report as adopted by the WTO Dispute Settlement Body, and in particular paragraphs 305 and 306 thereof, Implementing Regulation (EU) No 1241/2010 excluded Since Hardware from the definitive anti-dumping measure imposed by Regulation (EC) No 452/2007.

(102) A new measure may now be imposed on Since Hardware.

3. Form and level of measure

(103) In the light of the foregoing, and in accordance with Article 9(4) of the basic Regulation, it is considered that a definitive anti-dumping duty should be imposed on imports of the product concerned originating in the PRC and produced by Since Hardware at the level eliminating the injury.

(104) On the basis of the above, the definitive duty rate for these imports is 35,8 %.

(105) In accordance with Article 11(2) of the basic Regulation, anti-dumping measures normally apply for five years, unless there are specific grounds or circumstances which call for a shorter period. In the current case, it is considered appropriate to limit the duration of the measure so that it lasts until the expiry of the anti-dumping measures applicable to imports of the product concerned originating, *inter alia*, in the PRC imposed by Regulation (EC) No 452/2007. This will give the opportunity to consider at the same time any request for expiry review of the measures in force for all imports originating, *inter alia*, in the PRC. Of course, operators concerned, and in particular Since Hardware and/or the Union industry may, before 27 April 2012, request other reviews, in particular an interim review, of this Regulation provided that all requirements for doing so are complied with.

[1] Admittedly, during a certain period, due to the annulment by the Court of Justice of Regulation (EC) No 452/2007 in as far as Foshan Shunde is concerned, *de facto* a zero duty also applied to that company, but this does not make any material difference, in particular because this only arose a number of years after the entry into force of that Regulation.

(106) Any claim requesting the application of this 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, this Regulation will then be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

A definitive anti-dumping duty is hereby imposed on imports of ironing boards, whether or not free-standing, with or without a steam soaking and/or heating top and/or blowing top, including sleeve boards, and essential parts thereof, i.e. the legs, the top and the iron rest originating in the People's Republic of China and produced by Since Hardware (Guangzhou) Co., Ltd., falling within CN codes ex 3924 90 00, ex 4421 90 98, ex 7323 93 90, ex 7323 99 91, ex 7323 99 99, ex 8516 79 70 and ex 8516 90 00 (TARIC codes 3924 90 00 10, 4421 90 98 10, 7323 93 90 10, 7323 99 91 10, 7323 99 99 10, 8516 79 70 10 and 8516 90 00 51).

Article 2

1. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, for products manufactured by the company specified below shall be as follows:

Manufacturer	Duty rate	Taric additional code
Since Hardware (Guangzhou) Co., Ltd., Guangzhou	35,8 %	A784

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

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*. Unless reviewed under Article 11 of Regulation (EC) No 1225/2009, it shall remain in force until 27 April 2012.

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

Done at Brussels, 20 December 2010.

For the Council
The President
J. SCHAUVLIEGE

[1] European Commission, Directorate General for Trade, Directorate H, Office N-105 4/92, 1049 Brussels, BELGIUM.

COMMISSION REGULATION (EU) No 1244/2010

of 9 December 2010

amending Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems and Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004

(Text with relevance for the EEA and for Switzerland)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems [1],

Having regard to Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems [2], and in particular Article 92 thereof,

Whereas:

(1) Two Member States or their competent authorities have requested amendments to Annexes VIII and IX to Regulation (EC) No 883/2004.

(2) Some Member States or their competent authorities have requested amendments to Annexes 1 and 2 to Regulation (EC) No 987/2009.

(3) Annexes VIII and IX to Regulation (EC) No 883/2004 and Annexes 1 and 2 to Regulation (EC) No 987/2009 need to be adapted in order to take into account recent developments in national legislation and to guarantee transparency and legal certainty for stakeholders.

(4) The Administrative Commission on Coordination of Social Security Systems has agreed to the amendments.

(5) Regulations (EC) No 883/2004 and (EC) No 987/2009 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 883/2004 is amended as follows:

1. Annex VIII is amended as follows:

(a) in Part 1, section 'PORTUGAL' is replaced by the following:

'PORTUGAL

All applications for invalidity, old-age and survivors' pension claims, except for the cases where the totalised periods of insurance completed under the legislation of more than one Member State are equal to or longer than 21 calendar years but the national periods of insurance are equal or inferior to 20 years, and the calculation is made under Articles 32 and 33 of Decree-Law No 187/2007 of 10 May 2007.';

(b) in Part 2, the following new section is added after section 'POLAND':

'PORTUGAL

Supplementary pensions granted pursuant to Decree-Law No 26/2008 of 22 February 2008 (public capitalisation scheme).';

2. in Annex IX, Part I, section 'NETHERLANDS', is amended as follows:

(a) 'The law of 18 February 1966 on invalidity insurance for employees, as amended (WAO)' is replaced by 'Disability Insurance Act of 18 February 1966, as amended (WAO)';

(b) 'The law of 24 April 1997 on invalidity insurance for self-employed persons, as amended (WAZ)' is replaced by 'Self-employed Persons Disablement Benefits Act of 24 April 1997, as amended (WAZ)';

(c) 'The law of 21 December 1995 on general insurance for surviving dependants (ANW)' is replaced by 'General Surviving Relatives Act of 21 December 1995 (ANW)';

(d) 'The law of 10 November 2005 on work and income according to labour capacity (WIA)' is replaced by 'The Work and Income according to Labour Capacity Act of 10 November 2005 (WIA)'.

[1] OJ L 166, 30.4.2004, p. 1.
[2] OJ L 284, 30.10.2009, p. 1.

Article 2

Regulation (EC) No 987/2009 is amended as follows:

1. Annex 1 is amended as follows:

   (a) in section 'BELGIUM-NETHERLANDS' point (a) is deleted;

   (b) section 'GERMANY-NETHERLANDS' is deleted;

   (c) section 'NETHERLANDS-PORTUGAL' is deleted;

   (d) section 'DENMARK-LUXEMBOURG' is deleted;

2. in Annex 2, header, 'Articles 31 and 41' is replaced by 'Articles 32(2) and 41(1)'.

Article 3

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 9 December 2010.

For the Commission
The President
José Manuel BARROSO

COMMISSION REGULATION (EU) No 1245/2010

of 21 December 2010

opening Union tariff quotas for 2011 for sheep, goats, sheepmeat and goatmeat

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 ([1]), and in particular Articles 144(1) and 148 in conjunction with Article 4 thereof,

Whereas:

(1) Union tariff quotas for sheepmeat and goatmeat should be opened for 2011. The duties and quantities should be fixed in accordance with the respective international agreements in force during the year 2011.

(2) Council Regulation (EC) No 312/2003 of 18 February 2003 implementing for the Community the tariff provisions laid down in the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part ([2]) has provided for an additional bilateral tariff quota of 2 000 tonnes with a 10 % annual increase of the original quantity to be opened for product code 0204 from 1 February 2003. Therefore, a further 200 tonnes shall be added to the GATT/WTO quota for Chile and both quotas should continue to be managed in the same way during 2011.

(3) Certain quotas are defined for a period running from 1 July of a given year to 30 June of the following year. Since imports under this Regulation should be managed on a calendar-year basis, the corresponding quantities to be fixed for the calendar year 2011 with regard to the quotas concerned are the sum of half of the quantity for the period from 1 July 2010 to 30 June 2011 and half of the quantity for the period from 1 July 2011 to 30 June 2012.

(4) A carcass-weight equivalent needs to be fixed in order to ensure a proper functioning of the Union tariff quotas.

(5) Quotas of the sheepmeat and goatmeat products should, by way of derogation from Commission Regulation (EC) No 1439/95 of 26 June 1995 laying down detailed rules for the application of Council Regulation (EEC) No 3013/89 as regards the import and export of products in the sheepmeat and goatmeat sector ([3]), be managed in conformity with Article 144(2)(a) of Regulation (EC) No 1234/2007. This should be done in accordance with Articles 308a, 308b and 308c(1) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ([4]).

(6) Tariff quotas under this Regulation should be regarded initially as non-critical within the meaning of Article 308c of Regulation (EEC) No 2454/93 when managed under the first-come, first-served system. Therefore, customs authorities should be authorised to waive the requirement for security in respect of goods initially imported under those quotas in accordance with Articles 308c(1) and 248(4) of Regulation (EEC) No 2454/93. Due to the particularities of the transfer from one management system to the other, Article 308c(2) and (3) of that Regulation should not apply.

(7) It should be clarified which kind of proof certifying the origin of products has to be provided by operators in order to benefit from the tariff quotas under the first-come, first served system.

(8) When sheepmeat products are presented by operators to the customs authorities for import, it is difficult for those authorities to establish whether they originate from domestic sheep or other sheep, which determines the application of different duty rates. It is therefore appropriate to provide that the proof of origin contains a clarification to that end.

(9) Commission Regulation (EU) No 1234/2009 of 15 December 2009 opening Community tariff quotas for 2010 for sheep, goats, sheepmeat and goatmeat ([5]) becomes obsolete at the end of the year 2010. For this reason, it should be repealed.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of the Agricultural Markets,

([1]) OJ L 299, 16.11.2007, p. 1.
([2]) OJ L 46, 20.2.2003, p. 1.
([3]) OJ L 143, 27.6.1995, p. 7.
([4]) OJ L 253, 11.10.1993, p. 1.
([5]) OJ L 330, 16.12.2009, p. 73.

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation opens Union import tariff quotas for sheep, goats, sheepmeat and goatmeat for the period from 1 January to 31 December 2011.

Article 2

The customs duties applicable to the products under the quotas referred to in Article 1, the CN codes, the countries of origin, listed by country group, and the order numbers are set out in the Annex.

Article 3

1. The quantities, expressed in carcass-weight equivalent, for the import of products under the quotas referred to in Article 1, shall be those as laid down in the Annex.

2. For the purpose of calculating the quantities of 'carcase weight equivalent' referred to in paragraph 1 the net weight of sheep and goat products shall be multiplied by the following coefficients:

(a) for live animals: 0,47;

(b) for boneless lamb and boneless goatmeat of kid: 1,67;

(c) for boneless mutton, boneless sheep and boneless goatmeat other than of kid and mixtures of any of these: 1,81;

(d) for bone-in products: 1,00.

'Kid' shall mean goat of up to 1 year old.

Article 4

By way of derogation from Title II (A) and (B) of Regulation (EC) No 1439/95, the tariff quotas set out in the Annex to this Regulation shall be managed on a first-come, first-served basis in accordance with Articles 308a, 308b and 308c(1) of Regulation (EEC) No 2454/93 from 1 January to 31 December 2011. Article 308c(2) and (3) of that Regulation shall not apply. No import licences shall be required.

Article 5

1. In order to benefit from the tariff quotas set out in the Annex, a valid proof of origin issued by the competent authorities of the third country concerned together with a customs declaration for release for free circulation for the goods concerned shall be presented to the Union customs authorities.

The origin of products subject to tariff quotas other than those resulting from preferential tariff agreements shall be determined in accordance with the provisions in force in the Union.

2. The proof of origin referred to in paragraph 1 shall be as follows:

(a) in the case of a tariff quota which is part of a preferential tariff agreement, it shall be the proof of origin laid down in that agreement;

(b) in the case of other tariff quotas, it shall be a proof established in accordance with Article 47 of Regulation (EEC) No 2454/93 and, in addition to the elements provided for in that Article, the following data:

— the CN code (at least the first four digits),

— the order number or order numbers of the tariff quota concerned,

— the total net weight per coefficient category as provided for in Article 3(2) of this Regulation;

(c) in the case of a country whose quota falls under points (a) and (b) and are merged, it shall be the proof referred to in point (a).

Where the proof of origin referred to in point (b) is presented as supporting document for only one declaration for release for free circulation, it may contain several order numbers. In all other cases, it shall only contain one order number.

Article 6

Regulation (EU) No 1234/2009 is repealed.

Article 7

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

It shall apply from 1 January 2011.

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

Done at Brussels, 21 December 2010.

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

ANNEX

SHEEPMEAT AND GOATMEAT (in tonnes (t) of carcass weight equivalent) UNION TARIFF QUOTAS FOR 2011

Country group No	CN codes	'Ad valorem' duty %	Specific duty EUR/100 kg	Order number under 'first-come first-served'				Origin	Annual volume in tonnes of carcass weight equivalent
				Live animals (Coefficient = 0,47)	Boneless lamb (1) (Coefficient = 1,67)	Boneless mutton/sheep (2) (Coefficient = 1,81)	Bone-in and carcasses (Coefficient = 1,00)		
1	0204	Zero	Zero	—	09.2101	09.2102	09.2011	Argentina	23 000
				—	09.2105	09.2106	09.2012	Australia	18 786
				—	09.2109	09.2110	09.2013	New Zealand	227 854
				—	09.2111	09.2112	09.2014	Uruguay	5 800
				—	09.2115	09.2116	09.1922	Chile	6 600
				—	09.2121	09.2122	09.0781	Norway	300
				—	09.2125	09.2126	09.0693	Greenland	100
				—	09.2129	09.2130	09.0690	Faeroes	20
				—	09.2131	09.2132	09.0227	Turkey	200
				—	09.2171	09.2175	09.2015	Others (3)	200
2	0204, 0210 99 21, 0210 99 29, 0210 99 60	Zero	Zero	—	09.2119	09.2120	09.0790	Iceland	1 850
3	0104 10 30 0104 10 80 0104 20 90	10 %	Zero	09.2181	—	—	09.2019	*Erga omnes* (4)	92

(1) And goatmeat of kid.
(2) And goatmeat other than kid.
(3) 'Others' shall refer to all origins excluding the other countries mentioned in the current table.
(4) '*Erga omnes*' shall refer to all origins including the countries mentioned in the current table.

COMMISSION REGULATION (EU) No 1246/2010

of 21 December 2010

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 Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector [2], and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 22 December 2010.

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

Done at Brussels, 21 December 2010.

For the Commission,
On behalf of the President,
Jean-Luc DEMARTY
Director-General for Agriculture and Rural Development

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 350, 31.12.2007, 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	87,5
	MA	42,8
	TR	107,4
	ZZ	79,2
0707 00 05	EG	140,2
	JO	158,2
	TR	84,2
	ZZ	127,5
0709 90 70	MA	83,7
	TR	115,9
	ZZ	99,8
0805 10 20	AR	43,0
	BR	41,5
	MA	60,3
	PE	58,9
	TR	66,6
	UY	48,7
	ZA	50,2
	ZZ	52,7
0805 20 10	MA	61,9
	ZZ	61,9
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	HR	61,3
	IL	72,0
	JM	144,2
	TR	71,6
	ZZ	87,3
0805 50 10	AR	49,2
	TR	55,5
	UY	49,2
	ZZ	51,3
0808 10 80	AR	74,9
	CA	84,9
	CL	84,2
	CN	83,7
	MK	29,3
	NZ	74,9
	US	104,8
	ZA	124,1
	ZZ	82,6
0808 20 50	CN	63,6
	US	134,5
	ZZ	99,1

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

COMMISSION REGULATION (EU) No 1247/2010

of 21 December 2010

amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No 867/2010 for the 2010/11 marketing year

THE EUROPEAN COMMISSION,

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

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

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

Whereas:

(1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups for the 2010/11 marketing year are fixed by Commission Regulation (EU) No 867/2010 ([3]). These prices and duties have been last amended by Commission Regulation (EU) No 1230/2010 ([4])

(2) The data currently available to the Commission indicate that those amounts should be amended in accordance with the rules and procedures laid down in Regulation (EC) No 951/2006,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EU) No 867/2010 for the 2010/11, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 22 December 2010.

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

Done at Brussels, 21 December 2010.

For the Commission,
On behalf of the President,
Jean-Luc DEMARTY
Director-General for Agriculture and Rural Development

([1]) OJ L 299, 16.11.2007, p. 1.
([2]) OJ L 178, 1.7.2006, p. 24.
([3]) OJ L 259, 1.10.2010, p. 3.
([4]) OJ L 336, 21.12.2010, p. 22.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 22 December 2010

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 (1)	66,09	0,00
1701 11 90 (1)	66,09	0,00
1701 12 10 (1)	66,09	0,00
1701 12 90 (1)	66,09	0,00
1701 91 00 (2)	59,68	0,00
1701 99 10 (2)	59,68	0,00
1701 99 90 (2)	59,68	0,00
1702 90 95 (3)	0,60	0,17

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

DIRECTIVES

COMMISSION DIRECTIVE 2010/92/EU

of 21 December 2010

amending Council Directive 91/414/EEC to include bromuconazole as active substance

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ([1]), and in particular Article 6(1) thereof,

Whereas:

(1) Commission Regulations (EC) No 451/2000 ([2]) and (EC) No 1490/2002 ([3]) lay down the detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed, with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list included bromuconazole. By Commission Decision 2008/832/EC ([4]) it was decided not to include bromuconazole in Annex I to Directive 91/414/EEC.

(2) Pursuant to Article 6(2) of Directive 91/414/EEC the original notifier, hereinafter 'the applicant', submitted a new application requesting the accelerated procedure to be applied, as provided for in Articles 14 to 19 of Commission Regulation (EC) No 33/2008 of 17 January 2008 laying down detailed rules for the application of Council Directive 91/414/EEC as regards a regular and an accelerated procedure for the assessment of active substances which were part of the programme of work referred to in Article 8(2) of that Directive but have not been included into its Annex I ([5]).

(3) The application was submitted to Belgium, which had been designated rapporteur Member State by Regulation (EC) No 1490/2002. The time period for the accelerated procedure was respected. The specification of the active substance and the supported uses are the same as those that were the subject of Decision 2008/832/EC. That application also complies with the remaining substantive and procedural requirements of Article 15 of Regulation (EC) No 33/2008. Belgium evaluated the new information and data submitted by the applicant and prepared an additional report. It communicated that report to the European Food Safety Authority (hereinafter 'the Authority') and to the Commission on 8 October 2010.

(4) The Authority communicated the additional report to the other Member States and the applicant for comments and forwarded the comments it had received to the Commission. In accordance with Article 20(1) of Regulation (EC) No 33/2008 and at the request of the Commission, the additional report was peer reviewed by the Member States and the Authority. The Authority then presented its conclusion on bromuconazole to the Commission on 29 July 2010 ([6]). The draft assessment report, the additional report and the conclusion of the Authority were reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 23 November 2010 in the format of the Commission review report for bromuconazole.

(5) The additional report by the rapporteur Member State and the new conclusion by the Authority concentrate on the concerns that lead to the non-inclusion. Those concerns were, in particular, the high risk to aquatic organisms and the lack of information available to assess the potential contamination of surface water and groundwater.

(6) The new information submitted by the applicant allowed to assess the potential contamination of surface water and groundwater. The information currently available indicates that the risk of groundwater contamination is low and that the risk to aquatic organisms is acceptable.

(7) Consequently, the additional data and information provided by the applicant permit to eliminate the specific concerns that led to the non-inclusion. No other open scientific questions have arisen.

([1]) OJ L 230, 19.8.1991, p. 1.
([2]) OJ L 55, 29.2.2000, p. 25.
([3]) OJ L 224, 21.8.2002, p. 23.
([4]) OJ L 295, 4.11.2008, p. 53.
([5]) OJ L 15, 18.1.2008, p. 5.

([6]) European Food Safety Authority: 'Conclusion on the peer review of the pesticide risk assessment of the active substance bromuconazole', *EFSA Journal* 2010; 8(8):1704. [84 pp.]. doi:10.2903/j.efsa.2010.1704. Available online: www.efsa.europa.eu/efsajournal

(8) It has appeared from the various examinations made that plant protection products containing bromuconazole may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC, in particular with regard to the uses which were examined and detailed in the Commission review report. It is therefore appropriate to include bromuconazole in Annex I, in order to ensure that in all Member States the authorisations of plant protection products containing this active substance may be granted in accordance with the provisions of that Directive.

(9) Without prejudice to that conclusion, it is appropriate to obtain confirmatory information on certain specific points. Article 6(1) of Directive 91/414/EEC provides that the inclusion of a substance in Annex I may be subject to conditions. Therefore, it is appropriate to require that the applicant submit further information on residues of triazole derivative metabolites (TDMs) in primary crops, rotational crops and products of animal origin, in addition to information regarding the long-term risk to herbivorous mammals. To further refine the assessment of potential endocrine disrupting properties, it is appropriate to require that bromuconazole be subjected to further testing as soon as OECD test guidelines on endocrine disruption, or, alternatively, Community agreed test guidelines exist.

(10) It is therefore appropriate to amend Directive 91/414/EEC accordingly.

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

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 91/414/EEC is amended as set out in the Annex to this Directive.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2011 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 3

This Directive shall enter into force on 1 February 2011.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 21 December 2010.

For the Commission
The President
José Manuel BARROSO

ANNEX

The following entry shall be added at the end of the table in Annex I to Directive 91/414/EEC:

No	Common name, identification numbers	IUPAC name	Purity (*)	Entry into force	Expiration of inclusion	Specific provisions
'323	Bromuconazole CAS No: 116255-48-2 CIPAC No: 680	1-[(2*RS*,4*RS*:2*RS*,4*SR*)-4-bromo-2-(2,4-dichlorophenyl) tetrahydrofurfuryl]-1*H*-1,2,4-triazole	≥ 960 g/kg	1 February 2011	31 January 2021	PART A Only uses as fungicide may be authorised. PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on bromuconazole, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 23 November 2010 shall be taken into account. In this overall assessment, Member States shall pay particular attention to: — operator's safety and ensure that conditions of use prescribe the application of adequate personal protective equipment where appropriate, — protection of aquatic organisms. Conditions of authorisation shall include risk mitigation measures, where appropriate, such as adequate buffer zones. The Member States concerned shall ensure that the applicant presents to the Commission: — further information on residues of triazole derivative metabolites (TDMs) in primary crops, rotational crops and products of animal origin, — information to further address the long-term risk to herbivorous mammals. They shall ensure that the applicant at whose request bromuconazole has been included in this Annex provides such confirmatory information to the Commission by 31 January 2013 at the latest. The Member States concerned shall ensure that the applicant submits to the Commission further information addressing the potential endocrine disrupting properties of bromuconazole within two years after the adoption of the OECD test guidelines on endocrine disruption or, alternatively, of Community agreed test guidelines.'

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

DECISIONS

COUNCIL DECISION

of 14 December 2010

amending the Council's Rules of Procedure

(2010/795/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 240(3) thereof,

Having regard to Article 2(2) of Annex III to the Council's Rules of Procedure [1],

Whereas:

(1) Article 3(3), fourth subparagraph, of the Protocol (No 36) on transitional provisions annexed to the Treaties provides that, until 31 October 2014, when an act is to be adopted by the Council by a qualified majority, and if a member of the Council so requests, it shall be verified that the Member States constituting the qualified majority represent at least 62 % of the total population of the Union calculated according to the population figures set out in Article 1 of Annex III to the Council's Rules of Procedure (hereinafter 'Rules of Procedure').

(2) Article 2(2) of Annex III to the Rules of Procedure provides that, with effect from 1 January each year, the Council, in accordance with the data available to the Statistical Office of the European Union on 30 September of the preceding year, amends the figures set out in Article 1 of that Annex.

(3) The Rules of Procedure should therefore be amended accordingly for 2011,

HAS ADOPTED THIS DECISION:

Article 1

Article 1 of Annex III to the Rules of Procedure shall be replaced by the following:

'*Article 1*

For the purposes of implementing Article 16(5) of the TEU and Article 3(3) and (4) of the Protocol (No 36) on transitional provisions, the total population of each Member State for the period from 1 January 2011 to 31 December 2011 shall be as follows:

Member State	Population (× 1 000)
Germany	81 802,3
France	64 714,1
United Kingdom	62 008,0
Italy	60 340,3
Spain	45 989,0
Poland	38 167,3
Romania	21 462,2
Netherlands	16 575,0
Greece	11 305,1
Belgium	10 827,0
Portugal	10 637,7
Czech Republic	10 506,8
Hungary	10 014,3
Sweden	9 340,7
Austria	8 375,3
Bulgaria	7 563,7
Denmark	5 534,7
Slovakia	5 424,9
Finland	5 351,4
Ireland	4 467,9
Lithuania	3 329,0
Latvia	2 248,4
Slovenia	2 047,0
Estonia	1 340,1
Cyprus	803,1
Luxembourg	502,1
Malta	413,0
Total	501 090,4
Threshold (62 %)	310 676,1'

[1] Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

Article 2

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

It shall apply from 1 January 2011.

Done at Brussels, 14 December 2010.

For the Council
The President
S. VANACKERE

POLITICAL AND SECURITY COMMITTEE DECISION EUPOL COPPS/1/2010

of 21 December 2010

extending the mandate of the Head of the European Union Police Mission for the Palestinian Territories (EUPOL COPPS)

(2010/796/CFSP)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 38 thereof,

Having regard to Council Decision 2010/784/CFSP of 17 December 2010 on the European Union Police Mission for the Palestinian Territories (EUPOL COPPS) [1], and in particular Article 10(1) thereof,

Whereas:

(1) Pursuant to Article 10(1) of Decision 2010/784/CFSP, the Political and Security Committee is authorised, in accordance with Article 38 of the Treaty, to take the relevant decisions for the purpose of exercising the political control and strategic direction of EUPOL COPPS, including in particular the decision to appoint a Head of Mission.

(2) The High Representative of the Union for Foreign Affairs and Security Policy has proposed an extension of the mandate of Mr Henrik MALMQUIST as Head of EUPOL COPPS,

HAS ADOPTED THIS DECISION:

Article 1

The mandate of Mr Henrik MALMQUIST as Head of the European Union Police Mission for the Palestinian Territories (EUPOL COPPS) is hereby extended from 1 January 2011 until 31 December 2011.

Article 2

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

It shall apply until 31 December 2011.

Done at Brussels, 21 December 2010.

For the Political and Security Committee
The President
W. STEVENS

[1] OJ L 335, 18.12.2010, p. 60.

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2010 OF THE JOINT VETERINARY COMMITTEE SET UP BY THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE SWISS CONFEDERATION ON TRADE IN AGRICULTURAL PRODUCTS

of 1 December 2010

regarding the amendment of Appendices 1, 2, 5, 6, 10 and 11 to Annex 11 to the Agreement

(2010/797/EU)

THE JOINT VETERINARY COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (hereinafter referred to as 'the Agriculture Agreement'), and in particular Article 19(3) of Annex 11 thereto,

Whereas:

(1) The Agriculture Agreement entered into force on 1 June 2002.

(2) Under Article 19(1) of Annex 11 to the Agriculture Agreement the Joint Veterinary Committee is responsible for considering any matter arising in connection with the said Annex and its implementation and for carrying out the tasks provided for therein. Article 19(3) of that Annex authorises the Joint Veterinary Committee to amend the Appendices thereto, in particular with a view to their adaptation and updating.

(3) The Appendices to Annex 11 to the Agriculture Agreement were amended for the first time by Decision No 2/2003 of the Joint Veterinary Committee set up by the Agreement between the European Community and the Swiss Confederation on trade in agricultural products of 25 November 2003 amending Appendices 1, 2, 3, 4, 5, 6 and 11 to Annex 11 to the Agreement [1].

(4) The Appendices to Annex 11 to the Agriculture Agreement were last amended by Decision No 1/2008 of the Joint Veterinary Committee set up by the Agreement between the European Community and the Swiss Confederation on trade in agricultural products of 23 December 2008 regarding the amendment of Appendices 2, 3, 4, 5, 6 and 10 to Annex 11 to the Agreement [2].

(5) The Swiss Confederation has requested an extension to the previously granted derogation in respect of the *Trichinella* examination of carcasses and meat of domestic swine kept for fattening and slaughter in low-capacity slaughter establishments. Since such carcasses and meat of domestic swine, as well as meat preparations, meat products and derived processed products thereof, may not be traded with the Member States of the European Union, pursuant to the provisions of Article 9(a) of the Swiss Ordinance on foodstuffs of animal origin issued by the *Département Fédéral de l'Intérieur* (RS 817.022.108), this request can be complied with. The derogation in question should, therefore, be made applicable until 31 December 2014.

(6) Since the Appendices to Annex 11 to the Agriculture Agreement were last amended, the legislative provisions of Appendices 1, 2, 5, 6 and 10 to Annex 11 to that Agreement have also been amended. The contact points referred to in Appendix 11 to Annex 11 to the Agriculture Agreement should therefore be updated.

(7) It is necessary to adapt the provisions of Appendices 1, 2, 5, 6, 10 and 11 to Annex 11 to the Agriculture Agreement accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Appendices 1, 2, 5, 6, 10 and 11 to Annex 11 to the Agriculture Agreement shall be amended in accordance with Annexes I to VI to this Decision.

Article 2

This Decision, drawn up in duplicate, shall be signed by the joint chairmen or other persons empowered to act on behalf of the parties.

Article 3

This Decision shall enter into force on the date when both parties will have signed it.

[1] OJ L 23, 28.1.2004, p. 27.
[2] OJ L 6, 10.1.2009, p. 89.

Article 4

This Decision shall be published in the *Official Journal of the European Union*.

Done at Bern, 1 December 2010.

For the Swiss Confederation
The Head of Delegation
Hans WYSS

Done at Brussels, 1 December 2010.

For the European Union
The Head of Delegation
Paul VAN GELDORP

ANNEX I

1. Chapter V, 'Avian influenza', of Appendix 1 to Annex 11 to the Agriculture Agreement is replaced by the following:

'V. **Avian influenza**

A. LEGISLATION (*)

European Union	Switzerland
Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC (OJ L 10, 14.1.2006, p. 16).	1. Act of 1 July 1966 on epizootic diseases (LFE; RS 916.40), in particular Articles 1, 1a and 9a (measures against highly contagious epizootic diseases, control objectives) and 57 (technical implementing provisions, international cooperation). 2. Ordinance on epizootic diseases of 27 June 1995 (OFE; RS 916.401), in particular Articles 2 (highly contagious epizootic diseases), 49 (handling micro-organisms that are pathogenic for animals), 73 and 74 (cleaning and disinfection), 77 to 98 (common provisions concerning highly contagious epizootic diseases), 122 to 125 (specific measures concerning avian influenza). 3. Ordinance of 14 June 1999 on the organisation of the *Département fédéral de l'économie* (Org DFE; RS 172.216.1), in particular Article 8 (reference laboratory).

B. SPECIAL RULES AND PROCEDURES FOR IMPLEMENTATION

1. The European Union reference laboratory for avian influenza shall be the Central Veterinary Laboratory, New Haw, Weybridge, Surrey KT15 3NB, United Kingdom. Switzerland shall pay the costs for which it is liable for operations carried out by the laboratory in that capacity. The functions and duties of the laboratory shall be as laid down in Annex VII (2) to Directive 2005/94/EC.

2. Pursuant to Article 97 of the Ordinance on epizootic diseases, Switzerland has established a contingency plan, which is published on the website of the *Office Vétérinaire Fédéral*.

3. On-the-spot inspections shall be carried out under the responsibility of the Joint Veterinary Committee in accordance in particular with Article 60 of Directive 2005/94/EC and Article 57 of the Act on epizootic diseases.

(*) Unless indicated otherwise, any reference to an act shall mean that act as amended before 1 September 2009.'

2. Chapter VII, 'Diseases affecting fish and molluscs', of Appendix 1 to Annex 11 to the Agriculture Agreement is replaced by the following:

'VII. **Diseases affecting fish and molluscs**

A. LEGISLATION (*)

European Union	Switzerland
Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals (OJ L 328, 24.11.2006, p. 14).	1. Act of 1 July 1966 on epizootic diseases (LFE; RS 916.40), in particular Articles 1, 1a and 10 (measures against epizootic diseases, control objectives) and 57 (technical implementing provisions, international cooperation). 2. Ordinance on epizootic diseases of 27 June 1995 (OFE; RS 916.401), in particular Articles 3 and 4 (epizootic diseases concerned), 18a (registration of fish breeding units), 61 (obligations of leasers of fishing rights and of bodies responsible for monitoring fishing), 62 to 76 (general measures for combating disease), 275 to 290 (specific measures relating to fish diseases, diagnostic laboratory).

B. SPECIAL RULES AND PROCEDURES FOR IMPLEMENTATION

1. Flat oyster farming is not currently practised in Switzerland. Should cases of bonamiosis or marteiliosis appear, the *Office Vétérinaire Fédéral* undertakes to adopt the necessary emergency measures in accordance with European Union rules on the basis of Article 57 of the Act on epizootic diseases.

2. With a view to combating diseases affecting fish and molluscs, Switzerland shall apply the Ordinance on epizootic diseases, in particular Articles 61 (obligations of leasers of fishing rights and of bodies responsible for monitoring fishing), 62 to 76 (general measures for combating disease), 275 to 290 (specific measures relating to fish diseases, diagnostic laboratory) and 291 (epizootic diseases to be monitored).

3. The European Union reference laboratory for crustacean diseases shall be the Centre for Environment, Fisheries & Aquaculture Science (CEFAS), Weymouth Laboratory, United Kingdom. The European Union reference laboratory for fish diseases shall be the National Veterinary Institute, Technical University of Denmark, Hangøvej 2, 8200 Århus, Denmark. The European Union reference laboratory for mollusc diseases shall be the Laboratoire IFREMER, BP 133, 17390 La Tremblade, France. Switzerland shall pay the costs for which it is liable for operations carried out by the laboratories in the above capacity. The functions and duties of the laboratories shall be as laid down in Part I of Annex VI to Directive 2006/88/EC.

4. On-the-spot inspections shall be carried out under the responsibility of the Joint Veterinary Committee in accordance in particular with Article 58 of Directive 2006/88/EC and Article 57 of the Act on epizootic diseases.

(*) Unless indicated otherwise, any reference to an act shall mean that act as amended before 1 September 2009.'

ANNEX II

1. Paragraph 7(d) of Part B, 'Special rules and procedures for implementation', of Chapter I, 'Bovine animals and swine', of Appendix 2 to Annex 11 to the Agriculture Agrement is replaced by the following:

'(d) isolation shall be terminated when, after the infected animals have been eliminated, two serological examinations of all breeding animals and a representative number of fattening animals carried out at an interval of least 21 days have produced negative results.

By virtue of the recognised status of Switzerland, the provisions of Decision 2008/185/EC (OJ L 59, 4.3.2008, p. 19), last amended by Decision 2009/248/EC (OJ L 73, 19.3.2009, p. 22), shall apply *mutatis mutandis*.'

2. Paragraph 11 of Part B, 'Special rules and procedures for implementation', of Chapter I, 'Bovine animals and swine', of Appendix 2 to Annex 11 to the Agriculture Agreement is replaced by the following:

'11. Bovine animals and swine traded between the Member States of the European Union and Switzerland shall be accompanied by health certificates in accordance with the models set out in Annex F to Directive 64/432/EEC. The following adaptations shall apply:

— Model 1: in section C, the certifications are adapted as follows:

— in point 4, relating to the additional guarantees, the following is added to the indents:

"— disease: infectious bovine rhinotracheitis,

— in accordance with Commission Decision 2004/558/EC, which shall apply *mutatis mutandis*;",

— Model 2: in section C, the certifications are adapted as follows:

— in point 4, relating to the additional guarantees, the following is added to the indents:

"— disease: Aujeszky's,

— in accordance with Commission Decision 2008/185/EC, which shall apply *mutatis mutandis*;" '

3. Paragraph 4 of Part B, 'Special rules and procedures for implementation', of Chapter IV, 'Poultry and hatching eggs', of Appendix 2 to Annex 11 to the Agriculture Agreement is replaced by the following:

'4. For consignments of hatching eggs to the European Union, the Swiss authorities undertake to comply with the rules on marking laid down in Commission Regulation (EC) No 617/2008 of 27 June 2008 laying down detailed rules for implementing Regulation (EC) No 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks (OJ L 168, 28.6.2008, p. 5).'

4. Chapter V, 'Aquaculture animals and products', of Appendix 2 to Annex 11 to the Agriculture Agreement is replaced by the following:

'V. **Aquaculture animals and products**

A. LEGISLATION (*)

European Union	Switzerland
Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals (OJ L 328, 24.11.2006, p. 14).	1. Ordinance on epizootic diseases of 27 June 1995 (OFE; RS 916.401), in particular Articles 3 and 4 (epizootic diseases concerned), 18a (registration of fish breeding units), 61 (obligations of leasers of fishing rights and of bodies responsible for monitoring fishing), 62 to 76 (general measures for combating disease), 275 to 290 (specific measures relating to fish diseases, diagnostic laboratory). 2. Ordinance of 18 April 2007 on the import, transit and export of animals and animal products (OITE; RS 916.443.10). 3. Ordinance of 18 April 2007 on the import and transit of animals by air from third countries (OITA; RS 916.443.12).

B. SPECIAL RULES AND PROCEDURES FOR IMPLEMENTATION

1. For the purposes of this Annex, Switzerland is recognised as officially free from infectious salmon anaemia) and infections with Marteilia refringens and Bonamia ostreae.

2. The Joint Veterinary Committee shall decide on any application of Articles 29, 40, 41, 43, 44 and 50 of Directive 2006/88/EC.

3. The animal health conditions for the placing on the market of ornamental aquatic animals, aquaculture animals intended for farming, including relaying areas, put and take fisheries and open ornamental facilities, and restocking, and aquaculture animals and products thereof intended for human consumption are laid down in Articles 4 to 9 of Commission Regulation (EC) No 1251/2008 of 12 December 2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species (OJ L 337, 16.12.2008, p. 41).

4. On-the-spot inspections shall be carried out under the responsibility of the Joint Veterinary Committee in accordance in particular with Article 58 of Directive 2006/88/EC and Article 57 of the Act on epizootic diseases.

(*) Unless indicated otherwise, any reference to an act shall mean that act as amended before 1 September 2009.'

ANNEX III

Part A, 'Identification of animals', of Chapter V of Appendix 5 to Annex 11 to the Agriculture Agreement is replaced by the following:

'A. **Identification of livestock**

A. LEGISLATION (*)

European Union	Switzerland
1. Council Directive 2008/71/EC of 15 July 2008 on the identification and registration of pigs (OJ L 213, 8.8.2008, p. 31).	1. Ordinance on epizootic diseases of 27 June 1995 (OFE; RS 916.401), in particular Articles 7 to 20 (registration and identification).
2. Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 (OJ L 204, 11.8.2000, p. 1).	2. Ordinance of 23 November 2005 on the database on animal movements (RS 916.404).

B. SPECIAL RULES AND PROCEDURES FOR IMPLEMENTATION

(a) The Joint Veterinary Committee shall be responsible for the application of Article 4(2) of Directive 2008/71/EC.

(b) On-the-spot inspections shall be carried out under the responsibility of the Joint Veterinary Committee in accordance in particular with Article 22 of Regulation (EC) No 1760/2000, Article 57 of the Act on epizootic diseases and Article 1 of the Ordinance of 14 November 2007 on the coordination of inspections of agricultural holdings (OCI, RS 910.15).

(*) Unless indicated otherwise, any reference to an act shall mean that act as amended before 1 September 2009.'

ANNEX IV

1. Paragraph (6) of Section 'Special conditions' of Chapter I of Appendix 6 to Annex 11 to the Agriculture Agreement is replaced by the following:

'(6) The competent authorities of Switzerland may derogate from the *Trichinella* examination of carcasses and meat of domestic swine kept for fattening and slaughter in low-capacity slaughter establishments.

This provision shall apply until 31 December 2014.

In application of the provisions of Article 8(3) of the DFE Ordinance of 23 November 2005 on hygiene during the slaughter of livestock (OHyAb; RS *817.190.1*) and Article 9(8) of the DFI Ordinance of 23 November 2005 on foodstuffs of animal origin (RS *817.022.108*), these carcasses and meat of domestic swine kept for fattening and slaughter as well as meat preparations, meat products and derived processed products thereof shall be marked with a special health stamp in accordance with the model specified in the last subparagraph of Annex 9 to the DFE Ordinance of 23 November 2005 on hygiene during the slaughter of livestock (OhyAb; RS *817.190.1*). These products may not be traded with the Member States of the European Union, in accordance with the provisions of Article 9a of the DFI Ordinance on foodstuffs of animal origin (RS *817.022.108*).'

2. Paragraph (11) of Section 'Special conditions' of Chapter I of Appendix 6 to Annex 11 to the Agriculture Agreement is replaced by the following:

'(11) 1. Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food (OJ L 37, 13.2.1993, p. 1);

2. Commission Directive 95/45/EC of 26 July 1995 laying down specific purity criteria concerning colours for use in foodstuffs (OJ L 226, 22.9.1995, p. 1);

3. Regulation (EC) No 2232/96 of the European Parliament and of the Council of 28 October 1996 laying down a Community procedure for flavouring substances used or intended for use in or on foodstuffs (OJ L 299, 23.11.1996, p. 1);

4. Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of ß-agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC (OJ L 125, 23.5.1996, p. 3);

5. Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC (OJ L 125, 23.5.1996, p. 10);

6. Directive 1999/2/EC of the European Parliament and of the Council of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation (OJ L 66, 13.3.1999, p. 16);

7. Directive 1999/3/EC of the European Parliament and of the Council of 22 February 1999 on the establishment of a Community list of foods and food ingredients treated with ionising radiation (OJ L 66, 13.3.1999, p. 24);

8. Commission Decision 1999/217/EC of 23 February 1999 adopting a register of flavouring substances used in or on foodstuffs drawn up in application of Regulation (EC) No 2232/96 of the European Parliament and of the Council (OJ L 84, 27.3.1999, p. 1);

9. Commission Decision 2002/840/EC of 23 October 2002 adopting the list of approved facilities in third countries for the irradiation of foods (OJ L 287, 25.10.2002, p. 40);

10. Regulation (EC) No 2065/2003 of the European Parliament and of the Council of 10 November 2003 on smoke flavourings used or intended for use in or on foods (OJ L 309, 26.11.2003, p. 1);

11. Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs (OJ L 364, 20.12.2006, p. 5);

12. Commission Regulation (EC) No 884/2007 of 26 July 2007 on emergency measures suspending the use of E 128 Red 2G as food colour (OJ L 195, 27.7.2007, p. 8);

13. Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97 (OJ L 354, 31.12.2008, p. 7);

14. Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16);

15. Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC (OJ L 354, 31.12.2008, p. 34);

16. Directive 2009/32/EC of the European Parliament and of the Council of 23 April 2009 on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients (OJ L 141, 6.6.2009, p. 3);

17. Commission Directive 2008/60/EC of 17 June 2008 laying down specific purity criteria concerning sweeteners for use in foodstuffs (OJ L 158, 18.6.2008, p. 17);

18. Commission Directive 2008/84/EC of 27 August 2008 laying down specific purity criteria on food additives other than colours and sweeteners (OJ L 253, 20.9.2008, p. 1);

19. Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin, repealing Council Regulation (EEC) No 2377/90 and amending Directive 2001/82/EC of the European Parliament and of the Council and Regulation (EC) No 726/2004 of the European Parliament and of the Council (OJ L 152, 16.6.2009, p. 11).'

ANNEX V

Chapter V of Appendix 10 to Annex 11 to the Agriculture Agreement is hereby amended as follows:

1. Paragraphs 3, 6, 7, 8, 9 and 14 in Part 1.A are deleted.

2. The following paragraphs are added to Part 1.A:

'31. Commission Directive 2008/60/EC of 17 June 2008 laying down specific purity criteria concerning sweeteners for use in foodstuffs (OJ L 158, 18.6.2008, p. 17).

32. Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16).

33. Commission Directive 2008/84/EC of 27 August 2008 laying down specific purity criteria on food additives other than colours and sweeteners (OJ L 253, 20.9.2008, p. 1).'

ANNEX VI

Appendix 11 to Annex 11 to the Agriculture Agreement is replaced by the following:

'Appendix 11

Contact points

1. *For the European Union:*

The Director
Animal Health and Welfare
Directorate-General for Health and Consumers
European Commission, 1049 Brussels, Belgium

2. *For Switzerland:*

The Director
Office Vétérinaire Fédéral
CH-3003 Berne

Other important contact:

Head of Division
Office Fédéral de la Santé Publique
Division sécurité alimentaire
CH-3003 Berne'.

III

(Other acts)

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY DECISION

No 291/10/COL

of 7 July 2010

concerning the recognition of approved zones in Norway with regard to *Bonamia ostreae* and *Marteilia refringens*

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement on the European Economic Area, in particular Article 109 and Protocol 1 thereof,

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, in particular Article 5(2)(d) and Protocol 1 thereof,

Having regard to the Act referred to at point 4.1.5a of Chapter I of Annex I to the EEA Agreement, Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals [1], as adapted by Protocol 1 to the EEA Agreement, in particular Article 53 of that Act,

Whereas:

By its Decision No 225/04/COL of 9 September 2004, the EFTA Surveillance Authority recognised the entire coastline of Norway as an approved zone with regard to *Bonamia ostreae* and *Marteilia refringens*.

Norway informed the EFTA Surveillance Authority by e-mail of 3 June 2009 that an infection with *Bonamia ostreae* had been detected in wild oysters from the county of Aust-Agder in the south of Norway and that a control zone and a surveillance zone around the area affected had been established.

By letter dated 23 April 2010 (event No 554681), Norway has confirmed to the EFTA Surveillance Authority that the presence of *Bonamia ostreae* in the wild oysters from the county of Aust-Agder in the south of Norway could not be excluded and, hence, that no conclusive evidence could justify the lifting of a control and surveillance zone around the relevant area.

Article 53(3) of Directive 2006/88/EC provides that where the epizootic investigation confirms a significant likelihood that infection has occurred, the disease-free status of the Member State, zone or compartment shall be withdrawn, in accordance with the procedure under which that status was declared. According to the results of the epidemiological investigation carried out by Norway and the outcome of the discussions between the Norwegian National Veterinary Institute and the Community Reference Laboratory, the EFTA Surveillance Authority considers that the conditions of the provision for withdrawing the disease-free status of the affected area of Aust-Agder in the south of Norway are fulfilled.

Accordingly, Decision No 225/04/COL should be repealed.

The measures provided for in this Decision are in accordance with the opinion of the EFTA Veterinary Committee assisting the EFTA Surveillance Authority,

HAS ADOPTED THIS DECISION:

Article 1

The approved zones with regard to *Bonamia ostreae* and *Marteilia refringens* for Norway are listed in the Annex.

[1] OJ L 328, 24.11.2006, p. 14, and the EEA Supplement No 32, 17.6.2010, p. 1. This Directive is not yet published in Norwegian.

Article 2

Decision No 225/04/COL is hereby repealed.

Article 3

This Decision shall enter into force on 7 July 2010.

Article 4

This Decision is addressed to Norway.

Article 5

Only the English text version of this Decision is authentic.

Done at Brussels, 7 July 2010.

For the EFTA Surveillance Authority

Per SANDERUD	Sverrir Haukur GUNNLAUGSSON
President	*College Member*

ANNEX

1. The entire coastline of Norway is an approved zone with regard to *Marteilia refringens.*
2. The entire coastline of Norway is an approved zone with regard to *Bonamia ostreae* with the exception of:
   — the county of Aust-Agder in southern Norway.

Contents (continued)

III *Other acts*

EUROPEAN ECONOMIC AREA

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