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<sup>(1)</sup> Text with EEA relevance

## II

(Non-legislative acts)

## REGULATIONS

## IMPLEMENTING REGULATION OF THE COUNCIL (EU) No 363/2010

of 26 April 2010

**amending Regulation (EC) No 1001/2008 imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings of iron or steel originating, *inter alia*, in Malaysia**

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<sup>(1)</sup> (the basic Regulation), and in particular Article 11(4) thereof,

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

Whereas:

## 1. PROCEDURE

## 1.1. Existing measures

- (1) In October 2008, definitive anti-dumping measures were reimposed by Council Regulation (EC) No 1001/2008<sup>(2)</sup> on imports of certain tube and pipe fittings ('TPFs' or the 'product concerned') originating, *inter alia*, in Malaysia following an expiry review pursuant to Article 11(2) of the basic Regulation. The anti-dumping duties in force for Malaysia are 59,2 % for Anggerik Laksana Sdn Bhd and 75 % for all other companies.

## 1.2. Request for a review

- (2) The Commission has received an application to initiate a 'new exporter' review pursuant to Article 11(4) of the basic Regulation. The application was lodged by Pantech Steel Industries Sdn Bhd (the applicant), an exporting producer in Malaysia (the country concerned).
- (3) The applicant alleged that it did not export the product concerned to the Union during the period of investigation on which the anti-dumping measures were based, i.e. the period from 1 April 2000 to 31 March

2001 (the original investigation period) and that it is not related to any of the exporting producers of the product concerned which are subject to the anti-dumping measures described in recital 1.

- (4) The applicant further alleged that it had entered into an irrevocable contractual obligation to export the product concerned to the Union in the near future.

## 1.3. Initiation of a new exporter review

- (5) The Commission examined the *prima facie* evidence submitted by the applicant and considered it sufficient to justify the initiation of a review in accordance with Article 11(4) of the basic Regulation. After consultation of the Advisory Committee, and after the Union industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EC) No 692/2009<sup>(3)</sup>, a review of Regulation (EC) No 1001/2008 with regard to the applicant.
- (6) Pursuant to Regulation (EC) No 692/2009, the anti-dumping duty of 75 % imposed by Regulation (EC) No 1001/2008 was repealed with regard to imports of the product concerned produced and sold for exports to the Union by the applicant. Simultaneously, pursuant to Article 14(5) of the basic Regulation, customs authorities were directed to take appropriate steps to register such imports.
- (7) Regulation (EC) No 692/2009 determined that if the investigation showed that the applicant fulfilled the requirements to have an individual duty established, it may be necessary to amend the rate of duty currently applicable to imports of the product concerned from companies not individually mentioned in Article 1 of Regulation (EC) No 1001/2008.

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51.

<sup>(2)</sup> OJ L 275, 16.10.2008, p. 18.

<sup>(3)</sup> OJ L 199, 31.7.2009, p. 9.

#### 1.4. Product concerned

- (8) The product under review is tube and pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, originating in Malaysia (the product concerned), currently falling within CN codes ex 7307 93 11, ex 7307 93 19, ex 7307 99 30 and ex 7307 99 90.

#### 1.5. Parties concerned

- (9) The Commission officially advised the Union industry, the applicant and the representatives of the exporting country of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to be heard.
- (10) The Defence Committee of the steel butt-welding fittings industry of the European Union representing the Union industry (the Union industry) made its views known in writing to the Commission services. The Defence Committee challenged the reliability of the basis for the export price. Documents were also provided allegedly showing attempts to circumvent the measures and information was given about the level of price of the product concerned available for EU importers.
- (11) The Commission sent an anti-dumping questionnaire to the applicant and its related companies and received a reply within the deadline set for that purpose.
- (12) The Commission also sent anti-dumping questionnaires to unrelated importers located in the European Union but no cooperation was obtained.
- (13) The Commission sought to verify all the information it deemed necessary for the determination of the new exporter status and dumping, and verification visits were carried out at the premises of the applicant and a related company in Malaysia:

— Pantech Steel Industries Sdn Bhd (the applicant),

— Pantech Corporation Sdn Bhd (related trading company).

#### 1.6. Investigation period

- (14) The review investigation period of dumping covered the period from 1 July 2008 to 30 June 2009 ('review investigation period' or 'RIP').

## 2. RESULTS OF THE INVESTIGATION

### 2.1. New exporter qualification

- (15) The investigation confirmed that the company had not exported the product concerned during the original period of investigation and that it had started to export to the European Union after this period. The company entered into an irrevocable contractual obligation to export during the RIP. This took the form of three orders from the same importing group in the EU.
- (16) These orders were, after the RIP, completed by export transactions under approximately the same conditions with negligible differences in price and quantities. While the quantities involved were limited, they were nevertheless found sufficient to establish a reliable dumping margin. This is because the levels of prices charged were further supported by other information at the Commission services' disposal, including export prices of the exporter concerned to third countries, which confirmed the pattern of behaviour found in the transactions under scrutiny.
- (17) As concerns the other conditions for the recognition of a new exporter status, the company was able to demonstrate that it did not have any links, direct or indirect, with any of the Malaysian exporting producers subject to the anti-dumping measures in force with regard to the product concerned.
- (18) Accordingly, it is confirmed that the company should be considered a 'new exporter' in accordance with Article 11(4) of the basic Regulation, and thus an individual margin should be determined for it.

### 2.2. Dumping

#### *Determination of normal value*

- (19) The applicant produces the fittings and sells the product concerned domestically and on export markets. The investigation revealed a complex sales organisation on the domestic market involving unrelated distributors and related trading companies, whereby unrelated distributors purchase the product concerned from the producer and then resell it to the related traders that then sell the goods onwards to unrelated customers on the domestic market. De facto, the unrelated distributors act as agents for the applicant.
- (20) Based on the above, and taking into account the fact that the sales of the related trading companies can be linked back to the applicant, the prices charged to the final consumer by these related trading companies are considered as the first price in the ordinary course of trade and therefore form the basis for the normal value determination.

- (21) In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume was at least 5 % of the total export sales volume to the Union. The Commission established that tube and pipe fittings were sold domestically by the applicant in overall representative volumes.
- (22) The Commission then identified those product types of tube and pipe fittings sold domestically by the trading companies which were identical or directly comparable to the types sold for export to the European Union.
- (23) An examination was also made by the Commission as to whether the sales of tube and pipe fittings sold domestically in representative quantities could be regarded as having been made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable domestic sales to independent customers. As it was found that there were sufficient sales in the ordinary course of trade, normal value was based on the actual domestic price.
- (24) In the few cases where the type of product concerned was not sold on the domestic market during the RIP, the normal value was constructed by adding to the exporter's manufacturing costs of the exported types, a reasonable amount for selling, general and administrative expenses (SG&A) and a reasonable profit margin.

#### *Export price*

- (25) The product concerned was exported directly to independent customers in the Union. Therefore, the export price was established in accordance with Article 2(8) of the basic Regulation, i.e. on the basis of export prices actually paid or payable as referred to in recital 16.

#### *Comparison*

- (26) The normal value and the export prices were compared on an ex-works basis.
- (27) For the purpose of ensuring a fair comparison between normal value and export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments for insurance, handling, loading and ancillary expenses, and credit costs were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.
- (28) The applicant claimed that if the Commission would use the normal value based on the domestic sales of the

related trading companies, an adjustment for differences in level of trade should be granted between the domestic market and the EU market. It further argued that sales to the EU market were done at distributor level whereas, in the domestic market, the applicant used to sell an important part of the tube and pipe fittings as part of larger consignments in oil and gas project markets where fittings often play an ancillary role only to that of the main pipes, valves and other major components, and that this market was at a different level of trade.

- (29) After having analysed the sales conditions on the domestic market and in particular the sales price patterns, the investigation showed that the applicant did not demonstrate, in accordance with Article 2(10) of the basic Regulation, a consistent and distinct difference in functions and prices for the different levels of trade in the domestic market of the exporting country. Therefore no adjustment was taken into account.

#### *Dumping margin*

- (30) In accordance with Article 2(11) of the basic Regulation, and taking into account that there were only three orders at virtually the same point in time during the RIP and that the price of the raw material, which accounts for most of the cost of manufacturing, varied significantly during the RIP, the dumping margin was established on the basis of a comparison on a transaction to transaction basis between the normal value and the export price.

- (31) The comparison showed the existence of dumping at a level of 49,9 %, expressed as a percentage of the CIF Union-frontier price.
- (32) In addition, the investigation confirmed that the export prices of the applicant to other third countries with important quantities are significantly lower than those to the European Union, suggesting the existence of dumping on third markets.

### **3. AMENDMENT OF THE MEASURES BEING REVIEWED**

- (33) In the light of the results of the investigation, it is considered that a definitive anti-dumping duty should be imposed at the level of the dumping margin found.
- (34) The dumping margin, established for the RIP, of 49,9 % is below the country-wide injury elimination level of 75 % which was established for Malaysia in the original investigation. It is therefore proposed that a duty which is based on the dumping margin of 49,9 % be imposed and that Regulation (EC) No 1001/2008 be accordingly amended.

#### 4. RETROACTIVE LEVYING OF THE ANTI-DUMPING DUTY

- (35) In the light of the above findings, the anti-dumping duty applicable to the applicant shall be levied retroactively on imports of the product concerned which have been made subject to registration pursuant to Article 3 of Regulation (EC) No 692/2009.

#### 5. MONITORING CLAUSE AND POSSIBLE FURTHER REVIEW

- (36) It should be noted that the companies concerned have a complex system of distribution which also involves importing the product concerned from other countries under measures. In addition, there is a certain risk of duty avoidance due to the high difference in the duty rates between the different exporting companies inside Malaysia. Therefore, special measures are needed to ensure the proper application of the anti-dumping duties.
- (37) These special measures consist of the presentation to the customs authorities of the Member States of a valid commercial invoice which shall conform to the requirements set out in the Annex to this Regulation. Imports not accompanied by such an invoice shall be made subject to the residual anti-dumping duty applicable to all other exporters.
- (38) Furthermore, the Council notes that the Commission has informed it that it will invite the company concerned to submit regular reports to the Commission in order to ensure proper follow up of their sales of the product concerned to the Union and the price and other conditions related thereto, as well as information regarding developments in the company's domestic sales prices. The Council notes that, in particular, if such reports are not submitted, or where such reports disclose that measures may not be adequate to eliminate the effects of injurious dumping, it may be necessary to initiate an interim review in accordance with Article 11(3) of the basic Regulation. The Council also notes that the Commission has the possibility to *ex officio* initiate an interim review pursuant to Article 11(3) of the basic Regulation, in particular once one year has passed after the entry into force of this Regulation (although a previous review may also be warranted). It is noted that at this point in time, the Commission expects that it will be appropriate to conduct such a review after one year given the circumstances of this case. In this context, it is important to note that the duty established for the company concerned by this Regulation is based on only a limited number of orders.

#### 6. DISCLOSURE AND DURATION OF THE MEASURES

- (39) The parties concerned were informed of the essential facts and considerations on the basis of which it was intended to impose on imports of tube and pipe

fittings from the applicant an amended definitive anti-dumping duty and to levy this duty retroactively on imports made subject to registration. Their comments were considered and taken into account, where appropriate.

- (40) This review does not affect the date on which the measures imposed by Regulation (EC) No 1001/2008 will expire pursuant to Article 11(2) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. In Article 1(2) of Regulation (EC) No 1001/2008, the following shall be inserted into the table under producers in Malaysia:

'Country	Company	Rate of duty (%)	TARIC additional code
Malaysia	Pantech Steel Industries Sdn Bhd	49,9	A961'

2. The duty hereby imposed shall also be levied retroactively on imports of the product concerned which have been registered pursuant to Article 3 of Regulation (EC) No 692/2009.

The customs authorities are hereby directed to cease the registration of imports of the product concerned originating in Malaysia produced by Pantech Steel Industries Sdn Bhd.

3. In Article 1 of Regulation (EC) No 1001/2008 the following paragraph shall be added:

'3. The application of the individual duty rates specified for Pantech Steel Industries Sdn Bhd shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex. If no such invoice is presented, the duty rate applicable to all other companies shall apply.'

4. The addition of the above paragraph in Regulation (EC) No 1001/2008 implies that Article 1(3) of that Regulation is to be renumbered as Article 1(4).

5. In Regulation (EC) No 1001/2008, the following Annex shall be added:



‘ANNEX

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3):

1. The name and function of the official of the entity issuing the commercial invoice.
2. The following declaration: “I, the undersigned, certify that the (volume) of [product concerned] sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC addi-

tional code) in (country concerned). I declare that the information provided in this invoice is complete and correct and that the invoiced price is final and will not be compensated, in part or in whole, via any practice.

Date and signature”.

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

#### *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 Luxembourg, 26 April 2010.

*For the Council*

*The President*

C. ASHTON

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**IMPLEMENTING REGULATION OF THE COUNCIL (EU) No 364/2010****of 26 April 2010****amending Regulation (EC) No 1487/2005 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain finished polyester filament fabrics originating 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 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup> (the 'basic Regulation'), and in particular Article 9 thereof,

Having regard to Article 2 of Council Regulation (EC) No 1487/2005 <sup>(2)</sup>,

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

Whereas:

**1. MEASURES IN FORCE**

- (1) By Regulation (EC) No 1487/2005, the Council imposed a definitive anti-dumping duty on imports into the European Union of woven fabrics of synthetic filament yarn containing 85 % or more by weight of textured and/or non-textured polyester filament, dyed (including dyed white) or printed, originating in the People's Republic of China, currently falling within CN codes ex 5407 51 00, 5407 52 00, 5407 54 00, ex 5407 61 10, 5407 61 30, 5407 61 90, ex 5407 69 10 and ex 5407 69 90 ('the product concerned').
- (2) Given the large number of cooperating parties, a sample of Chinese exporting producers was selected during the investigation which led to the imposition of the measures.
- (3) The sampled companies were attributed the individual duty rates established during the investigation. The cooperating non-sampled companies which were granted market economy treatment (MET), in accordance with the provisions of Article 2(7)(c) of Council Regulation (EC) No 384/96 <sup>(3)</sup>, were attributed the weighted average duty of 14,1 % which was established for the

sampled companies which were granted MET. The cooperating non-sampled companies which were granted individual treatment (IT), in accordance with the provisions of Article 9(5) of the same Regulation, received the weighted average duty of 37,1 % established for the sampled companies that were granted IT. A countrywide duty of 56,2 % was imposed on all other companies.

- (4) Following an anti-absorption reinvestigation pursuant to Article 12 of Regulation (EC) No 384/96, the Council, by Regulation (EC) No 1087/2007 <sup>(4)</sup> increased the countrywide duty to 74,8 %. In addition, Chinese exporting producers with individual duty rates that did not cooperate in the reinvestigation were attributed higher anti-dumping duties in accordance with the provisions of Article 12(3) of Regulation (EC) No 384/96.

- (5) Article 2 of Regulation (EC) No 1487/2005 gives the possibility to Chinese exporting producers which meet the four criteria set out in that Article to be granted the same treatment as the one set out in recital 3 for the cooperating companies not included in the sample ('New Exporting Producer Treatment' or 'NEPT').

**2. NEW EXPORTING PRODUCERS' REQUEST**

- (6) One group of companies consisting of two related companies, namely AlbaChiara Printing and Dyeing (Jiaxing) Co. Ltd, and Jiaxing E. Boselli Textile Trading Co. Ltd ('the applicant'), requested to be granted NEPT.
- (7) An examination has been carried out to determine whether the applicant fulfils the criteria for being granted NEPT as set out in Article 2 of Regulation (EC) No 1487/2005, by verifying that:
  - (a) it did not export the product concerned to the European Union during the investigation period on which the measures are based (1 April 2003 to 31 March 2004) ('the first criterion'),
  - (b) it is not related to any of the exporters or producers in the People's Republic of China which are subject to the anti-dumping measures imposed by that Regulation ('the second criterion'),

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51.

<sup>(2)</sup> OJ L 240, 16.9.2005, p. 1.

<sup>(3)</sup> OJ L 56, 6.3.1996, p. 1.

<sup>(4)</sup> OJ L 246, 21.9.2007, p. 1.



- (c) it has actually exported to the European Union the product concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity of the product concerned to the European Union ('the third criterion'),
- (d) it operates under market economy conditions defined in Article 2(7)(c) of the basic Regulation or, alternatively, that it fulfils the requirements to have an individual duty in accordance with Article 9(5) of the basic Regulation ('the fourth criterion').
- (8) Questionnaires were sent to the applicant asking it to supply evidence to demonstrate that it met the first, second and third criteria.
- (9) Since the fourth criterion implies that the applicants submit a claim for MET and/or IT, the Commission sent MET and IT claim forms to the applicant. The applicant requested MET pursuant to Article 2(7) of the basic Regulation.
- (10) Briefly, and for ease of reference only, the MET criteria are set out in summarised form below:
- (a) business decisions and costs are made in response to market signals and without significant State interference; and costs of major inputs substantially reflect market values;
  - (b) firms have one clear set of basic accounting records which are independently audited in line with international accounting standards<sup>(1)</sup> and are applied for all purposes;
  - (c) there are no significant distortions carried over from the former non-market economy system;
  - (d) bankruptcy and property laws guarantee legal certainty and stability;
  - (e) exchange rate conversions are carried out at market rates.
- (11) Exporting producers fulfilling the criteria mentioned in recital 7 may, pursuant to Article 2 of Regulation (EC) No 1487/2005, be granted either the 14,1 % duty rate applicable to companies to which MET was granted in accordance with Article 2(7)(c) of Regulation (EC) No 384/96, or the weighted average duty rate of 37,1 % applicable to companies to which IT was granted in accordance with Article 9(5) of the same Regulation.
- (12) The European Commission sought and verified all information it deemed necessary for the purpose of determining whether the four criteria set out in Article 2 of Regulation (EC) No 1487/2005 had been fulfilled. Verification visits were carried out at the premises of the following companies:
- AlbaChiara Printing and Dyeing (Jiaxing) Co. Ltd, Jiaxing,
  - Jiaxing E. Boselli Textile Trading Co. Ltd, Jiaxing.

### 3. FINDINGS

- (13) The applicant has provided sufficient evidence to prove that it meets the four criteria mentioned in recital 7. The applicant in fact could prove that (i) it did not export the product concerned to the European Union during the period 1 April 2003 to 31 March 2004, (ii) it is not related to any of the exporters or producers in the People's Republic of China which are subject to the anti-dumping measures imposed by Regulation (EC) No 1487/2005, (iii) it actually exported a significant quantity of the product concerned to the European Union starting from the year 2008, (iv) it fulfils all the requirements for MET and can therefore be granted an individual duty in accordance with Article 2(7)(c) of the basic Regulation. Therefore, the applicant could be granted the weighted average duty rate applicable to cooperating companies not included in the sample which have been granted MET (i.e. 14,1 %) in accordance with Article 2 of Regulation (EC) No 1487/2005, and should be added to the list of exporting producers in Article 1(2) of that Regulation.

### 4. MODIFICATION OF THE LIST OF COMPANIES BENEFITING FROM INDIVIDUAL DUTY RATES

- (14) In consideration of the findings of the investigation as indicated in recital 13, it is concluded that the companies AlbaChiara Printing and Dyeing (Jiaxing) Co. Ltd, and Jiaxing E. Boselli Textile Trading Co. Ltd should be added to the list of individual companies mentioned under Article 1(2) of Regulation (EC) No 1487/2005 with a duty rate of 14,1 %.

<sup>(1)</sup> International accounting standards refer to all major recognised international standards of accounting, including US GAAP and the works of the International Accounting Standards Committee Foundation ('IASCF') carried out by the International Accounting Standards Board ('IASB'), covering the International Accounting Standards Board Framework ('IASBF'), the International Accounting Standards (IAS), the International Financial Reporting Standards ('IFRS') and the International Financial Reporting Interpretations Committee publications ('IFRIC').

- (15) The applicant and the Union industry have been informed of the findings of the investigation and have had the opportunity to submit their comments. No additional information was brought forward permitting to lead to any different conclusion for the applicant,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 1(2) of Regulation (EC) No 1487/2005 shall be amended by adding the following companies in the table of companies with individual duty rates:

Company	Definitive anti-dumping duty	TARIC additional code
'AlbaChiara Printing and Dyeing (Jiaxing) Co. Ltd	14,1 %	A617
Jiaxing E. Boselli Textile Trading Co. Ltd	14,1 %	A617'

*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 Luxembourg, 26 April 2010.

*For the Council*  
*The President*  
C. ASHTON

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## COMMISSION REGULATION (EU) No 365/2010

of 28 April 2010

**amending Regulation (EC) No 2073/2005 on microbiological criteria for foodstuffs as regards *Enterobacteriaceae* in pasteurised milk and other pasteurised liquid dairy products and *Listeria monocytogenes* in food grade salt**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

in which regular testing of *L. monocytogenes* is not required.

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

Having regard to Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs <sup>(1)</sup>, and in particular Article 4(4) thereof,

Whereas:

(1) Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs <sup>(2)</sup> lays down microbiological criteria for certain micro-organisms and the implementing rules to be complied with by food business operators when implementing the general and specific hygiene measures referred to in Article 4 of Regulation (EC) No 852/2004.

(2) According to the article 10 of Regulation (EC) No 2073/2005 microbiological criteria shall be reviewed taking into account progress in science, technology and methodology, emerging pathogenic micro-organisms in foodstuffs, and information from risk assessments.

(3) Chapter 1 of Annex I to Regulation (EC) No 2073/2005 sets out food safety criteria for *Listeria monocytogenes* in certain ready-to-eat foods. Part 1.3 provides limits for ready-to-eat foods unable to support the growth of *L. monocytogenes*, other than those intended for infants and for special medical purposes. Food business operators are required to prove compliance with the criteria in products placed on the market during their shelf-life.

(4) According to the Regulation (EC) 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety <sup>(3)</sup>, food grade salt is a ready-to-eat food. According to scientific evidence, presence and survival of *L. monocytogenes* in salt is unlikely in normal circumstances. Therefore, food grade salt should be added to footnote 4 of Chapter 1 of Annex I to Regulation (EC) No 2073/2005 which provides for the ready-to-eat foods

(5) According to Regulation (EC) No 2073/2005, a process hygiene criterion applies to *Enterobacteriaceae* in pasteurised milk and other pasteurised liquid dairy products including an analytical reference method and limits.

(6) The analytical reference method set out for *Enterobacteriaceae* in pasteurised milk and other pasteurised liquid dairy products ISO 21528-1 has been shown to be difficult to use for routine analyses in own checks since it is very laborious and time consuming. Due to the methodological development the analytical reference method of *Enterobacteriaceae* in pasteurised milk and other pasteurised liquid dairy products should be changed to ISO 21528-2 which is quicker and easier to perform.

(7) Analytical reference methods have an effect on test results. Therefore, the criterion limit of *Enterobacteriaceae* in pasteurised milk and other pasteurised liquid dairy products needs to be changed accordingly. The change would still guarantee sufficient detection limit for the process hygiene since likely problems in the manufacturing process would cause much higher growth of *Enterobacteriaceae*.

(8) Given a recent change in taxonomy the name of *Enterobacter sakazakii* in Regulation (EC) No 2073/2005 should be changed to *Cronobacter* spp. (*Enterobacter sakazakii*).

(9) Some of the provisions were applicable until 1 January 2010 and new ones already laid down in the Regulation will apply thereafter. To facilitate readability of these provisions, it is appropriate to delete the old ones.

(10) Regulation (EC) No 2073/2005 should therefore be amended accordingly.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health and neither the European Parliament nor the Council has opposed them,

<sup>(1)</sup> OJ L 139, 30.4.2004, p. 1.

<sup>(2)</sup> OJ L 338, 22.12.2005, p. 1.

<sup>(3)</sup> OJ L 31, 1.2.2002, p. 1.

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I to Regulation (EC) No 2073/2005 is amended as follows:

1. Chapter 1 is amended as follows:

(a) Row 1.5 is replaced by the following:

'1.5 Minced meat and meat preparations made from poultry meat intended to be eaten cooked	<i>Salmonella</i>	5	0	Absence in 25 g	EN/ISO 6579	Products placed on the market during their shelf-life'
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(b) Row 1.9 is replaced by the following:

'1.9 Meat products made from poultry meat intended to be eaten cooked	<i>Salmonella</i>	5	0	Absence in 25 g	EN/ISO 6579	Products placed on the market during their shelf-life'
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(c) Row 1.24 is replaced by the following:

'1.24 Dried infant formulae and dried dietary foods for special medical purposes intended for infants below 6 months of age <sup>(14)</sup>	<i>Cronobacter</i> spp. ( <i>Enterobacter sakazakii</i> )	30	0	Absence in 10 g	ISO/TS 22964	Products placed on the market during their shelf-life'
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2. In footnote 4 of Chapter 1 the following indent is added:

— food grade salt'

3. Part 2.2. of Chapter 2 is amended as follows:

(a) Row 2.2.1 is replaced by the following:

'2.2.1 Pasteurised milk and other pasteurised liquid dairy products <sup>(4)</sup>	Enterobacteriaceae	5	0	10 cfu/ml	ISO 21528-2	End of the manufacturing process	Check on the efficiency of heat-treatment and prevention of recontamination as well as the quality of raw materials'
--	--------------------	---	---	-----------	-------------	----------------------------------	--

(b) Footnote (2) is replaced by the following:

‘<sup>(2)</sup> For points 2.2.1, 2.2.7, 2.2.9 and 2.2.10  $m=M$ ’

*Article 2*

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, 28 April 2010.

*For the Commission*  
*The President*  
José Manuel BARROSO

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**COMMISSION REGULATION (EU) No 366/2010  
of 28 April 2010**

**amending for the 125th time Council Regulation (EC) No 881/2002 imposing certain specific  
restrictive measures directed against certain persons and entities associated with Usama bin  
Laden, the Al-Qaida network and the Taliban**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan, <sup>(1)</sup> and in particular Article 7(1)(a) thereof,

Whereas:

- (1) Annex I to Regulation (EC) No 881/2002 lists the persons, groups and entities covered by the freezing of funds and economic resources under that Regulation.

- (2) On 12 April 2010 the Sanctions Committee of the United Nations Security Council decided to amend the identifying data concerning seven natural persons from its list of persons, groups and entities to whom the freezing of funds and economic resources should apply.

- (3) Annex I should therefore be updated accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I to Regulation (EC) No 881/2002 is hereby amended as set out in the Annex to this Regulation.

*Article 2*

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

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

Done at Brussels, 28 April 2010.

*For the Commission,  
On behalf of the President,  
João VALE DE ALMEIDA  
Director-General for External Relations*

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<sup>(1)</sup> OJ L 139, 29.5.2002, p. 9.



## ANNEX

Annex I to Regulation (EC) No 881/2002 is amended as follows:

1. The entry '**Ahmadullah** (*alias* Ahmadulla) Title: Qari. Function: Minister of Security (Intelligence) of the Taliban regime. Date of birth: approximately 1975. Place of birth: Qarabagh district, Ghazni province, Afghanistan. Nationality: Afghan' under the heading 'Natural persons' shall be replaced by the following:

Ahmadullah (*alias* Ahmadulla) Title: Qari. Function: Minister of Security (Intelligence) of the Taliban regime. Date of birth: approximately 1975. Place of birth: Qarabagh district, Ghazni province, Afghanistan. Nationality: Afghan. Other information: Reportedly deceased in December 2001. Date of designation referred to in Article 2a (4) (b): 25.1.2001.

2. The entry 'Ahmad Jan **Akhundzada**. Title: Maulavi. Function: Governor of Zabol Province (Afghanistan) under the Taliban regime. Place of birth: Uruzgan province, Afghanistan. Nationality: Afghan' under the heading 'Natural persons' shall be replaced by the following:

Ahmad Jan Akhundzada Shukoor **Akhundzada** (*alias* (a) Ahmad Jan Akhundzada (b) Ahmad Jan Akhund Zada). Title: (a) Maulavi (b) Mullah. Function: Governor of Zabol Province (Afghanistan) under the Taliban regime. Place of birth: Uruzgan province, Afghanistan. Nationality: Afghan. Other information: Taliban member in charge of Uruzgan province, Afghanistan, as at early 2007. Date of designation referred to in Article 2a (4) (b): 25.1.2001.

3. The entry 'Hassan Abdullah Hersi **Al-Turki** (*alias* Hassan Turki). Title: Sheikh. Date of birth: Approximately 1944. Place of birth: Region V, Ethiopia (the Ogaden Region in eastern Ethiopia). Nationality: Somali. Other information: (a) Reported to be active in Southern Somalia, lower Juba near Kismayo, mainly in Jilibe and Burgabo as of November 2007; (b) Family background: from the Ogaden clan, Reer-Abdille subclan; (c) Part of the Al-Itihaad Al-Islamiya (AIAI) leadership; (d) Believed to have been involved in the attacks on the United States embassies in Nairobi and Dar es Salaam in August 1998' under the heading 'Natural persons' shall be replaced by the following:

Hassan Abdullah Hersi **Al-Turki** (*alias* (a) Hassan Turki, (b) Hassen Abdelle Fihaye, (c) Sheikh Hassan Abdullah Fahaih). Title: (a) Sheikh (b) Colonel. Date of birth: approximately 1944. Place of birth: Region V, Ethiopia (the Ogaden Region in eastern Ethiopia). Nationality: Somali. Other information: (a) Reported to be active in Southern Somalia, lower Juba near Kismayo, mainly in Jilibe and Burgabo as of November 2007; (b) Family background: from the Ogaden clan, Reer-Abdille subclan; (c) Part of the Al-Itihaad Al-Islamiya (AIAI) leadership; (d) Believed to have been involved in the attacks on the United States embassies in Nairobi and Dar es Salaam in August 1998. Date of designation referred to in Article 2a (4) (b): 25.1.2001.

4. The entry 'Khairullah **Khairkhwah** (*alias* Khairullah Mohammad **Khairkhwah**) Title: Maulavi. Function: Governor of Herat Province (Afghanistan) under the Taliban regime. Date of birth: Approximately 1963. Place of birth: Arghistan district, Kandahar province, Afghanistan. Nationality: Afghan' under the heading 'Natural persons' shall be replaced by the following:

Khairullah **Khairkhwah** (*alias* Mullah Khairullah **Khairkhwah**). Title: (a) Maulavi (b) Mullah. Function: (a) Governor of Herat Province (Afghanistan) under the Taliban regime, (b) spokesperson of the Taliban regime, (c) Governor of Kabul province under the Taliban regime, (d) Minister of Internal Affairs under the Taliban regime. Date of birth: approximately 1963. Place of birth: Arghistan district, Kandahar province, Afghanistan. Nationality: Afghan. Other information: In custody as of June 2007. Date of designation referred to in Article 2a (4) (b): 25.1.2001.

5. The entry 'Abdul Manan **Nyazi** (*alias* (a) Abdul Manan **Nayazi**, (b) Abdul Manan **Niazi**, (c) Baryaly, (d) Baryalai). Title: Mullah. Function: Governor of Kabul Province under the Taliban regime. Date of birth: approximately 1968. Place of birth: Pashtoon Zarghoon district, Herat province, Afghanistan. Nationality: Afghan. Other information: believed to be in the Afghanistan/Pakistan border area' under the heading 'Natural persons' shall be replaced by the following:

Abdul Manan **Nyazi** (*alias* (a) Abdul Manan **Nayazi**, (b) Abdul Manan **Niazi**, (c) Baryaly, (d) Baryalai). Title: Mullah. Function: Governor of Kabul Province under the Taliban regime. Date of birth: approximately 1968. Place of birth: Pashtoon Zarghoon district, Herat province, Afghanistan. Nationality: Afghan. Other information: Taliban member responsible for Herat province. Believed to be in the Afghanistan/Pakistan border area. Date of designation referred to in Article 2a (4) (b): 25.1.2001.

6. The entry 'Nooruddin **Turabi**. Title: Mullah. Function: Minister of Justice of the Taliban regime. Date of birth: Approximately 1963. Place of birth: Kandahar, Afghanistan. Nationality: Afghan' under the heading 'Natural persons' shall be replaced by the following:

Nooruddin Turabi Muhammad **Qasim** (*alias* Noor ud Din Turabi). Title: (a) Mullah (b) Maulavi. Function: Minister of Justice of the Taliban regime. Date of birth: approximately 1963. Place of birth: (a) Kandahar, Afghanistan, (b) Chora district, Uruzgan province, Afghanistan. Nationality: Afghan. Date of designation referred to in Article 2a (4) (b): 25.1.2001.

7. The entry 'Shams **Ur-Rahman**. Title: Mullah. Function: Deputy Minister of Agriculture of the Taliban regime. Nationality: Afghan' under the heading 'Natural persons' shall be replaced by the following:

Shams Ur-Rahman **Sher Alam** (*alias* (a) Shamsurrahman (b) Shams-u-Rahman). Title: (a) Mullah (b) Maulavi. Function: Deputy Minister of Agriculture of the Taliban regime. Place of birth: Suroobi district, Kabul province, Afghanistan. Nationality: Afghan. Other information: Believed to be in the Afghanistan/Pakistan border area. Date of designation referred to in Article 2a (4) (b): 23.2.2001.

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**COMMISSION REGULATION (EU) No 367/2010****of 28 April 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) <sup>(1)</sup>,

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 <sup>(2)</sup>, 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 29 April 2010.

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

Done at Brussels, 28 April 2010.

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

Jean-Luc DEMARTY  
*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> 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 <sup>(1)</sup>	Standard import value
0702 00 00	JO	98,8
	MA	92,8
	TN	108,1
	TR	95,1
	ZZ	98,7
0707 00 05	MA	80,4
	TR	118,2
	ZZ	99,3
0709 90 70	MA	86,8
	TR	87,5
	ZZ	87,2
0805 10 20	EG	47,9
	IL	57,8
	MA	45,8
	TN	61,8
	TR	51,6
	ZZ	53,0
0805 50 10	IL	58,2
	TR	69,0
	ZA	72,5
	ZZ	66,6
0808 10 80	AR	89,8
	BR	80,3
	CA	80,5
	CL	83,9
	CN	83,7
	MK	22,1
	NZ	104,5
	US	120,8
	UY	68,9
	ZA	83,3
	ZZ	81,8
0808 20 50	AR	87,5
	CL	104,8
	CN	96,0
	NZ	167,4
	ZA	90,4
	ZZ	109,2

<sup>(1)</sup> 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 368/2010****of 28 April 2010****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 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) <sup>(1)</sup>,

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 <sup>(2)</sup>, 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 2009/10 marketing year are fixed by Commission Regulation (EC) No 877/2009 <sup>(3)</sup>. These prices and duties have been last amended by Commission Regulation (EU) No 325/2010 <sup>(4)</sup>.

- (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 (EC) No 877/2009 for the 2009/10, marketing year, are hereby amended as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 29 April 2010.

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

Done at Brussels, 28 April 2010.

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

Jean-Luc DEMARTY  
*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 178, 1.7.2006, p. 24.

<sup>(3)</sup> OJ L 253, 25.9.2009, p. 3.

<sup>(4)</sup> OJ L 99, 21.4.2010, p. 5.

## ANNEX

**Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 29 April 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 <sup>(1)</sup>	33,32	1,29
1701 11 90 <sup>(1)</sup>	33,32	4,91
1701 12 10 <sup>(1)</sup>	33,32	1,16
1701 12 90 <sup>(1)</sup>	33,32	4,61
1701 91 00 <sup>(2)</sup>	35,01	7,73
1701 99 10 <sup>(2)</sup>	35,01	3,83
1701 99 90 <sup>(2)</sup>	35,01	3,83
1702 90 95 <sup>(3)</sup>	0,35	0,31

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



# DECISIONS

## COUNCIL DECISION

of 26 April 2010

**appointing one Dutch alternate member of the Committee of the Regions**

(2010/241/EU)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on the functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the Dutch Government,

Whereas:

### *Article 1*

The following is hereby appointed to the Committee of the Regions as an alternate member for the remainder of the current term of office, which runs until 25 January 2015:

Mr M.F.A. (René) van DIESEN, Gedeputeerde (Deputy Queen's Commissioner) of the Province of Flevoland,

### *Article 2*

This Decision shall take effect on the day of its adoption.

Done at Luxembourg, 26 April 2010.

- (1) On 22 December 2009 and on 18 January 2010, the Council adopted Decisions 2009/1014/EU and 2010/29/EU appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2010 to 25 January 2015 <sup>(1)</sup>.

- (2) An alternate member's seat on the Committee of the Regions has become vacant following the end of the term of office of Mr Harry DIJKSMA,

*For the Council*  
*The President*  
M. Á. MORATINOS

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<sup>(1)</sup> OJ L 348, 29.12.2009, p. 22 and OJ L 12, 19.1.2010, p. 11.

**COUNCIL DECISION****of 26 April 2010****appointing one Austrian member and one Austrian alternate member of the Committee of the Regions**

(2010/242/EU)

THE COUNCIL OF THE EUROPEAN UNION,

(a) as member:

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

— Herr Landesstatthalter Mag. Markus WALLNER, Stellvertretender Landeshauptmann von Vorarlberg (change of mandate),

Having regard to the proposal of the Austrian Government,

Whereas:

and

(1) On 22 December 2009 and on 18 January 2010, the Council adopted Decisions 2009/1014/EU and 2010/29/EU appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2010 to 25 January 2015 <sup>(1)</sup>.

(b) as alternate member:

— Frau Landtagspräsidentin Dr. Bernadette MENNEL, Präsidentin des Vorarlberger Landtags.

(2) A member's seat on the Committee of the Regions has become vacant following the end of the term of office of Mr Herbert SAUSGRUBER. An alternate member's seat has become vacant following the appointment of Mr Markus WALLNER as a member of the Committee of the Regions,

*Article 2*

This Decision shall take effect on the day of its adoption.

HAS ADOPTED THIS DECISION:

Done at Luxembourg, 26 April 2010.

*Article 1*

The following are hereby appointed to the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2015:

*For the Council*  
*The President*  
M. Á. MORATINOS

<sup>(1)</sup> OJ L 348, 29.12.2009, p. 22 and OJ L 12, 19.1.2010, p. 11.

**COUNCIL DECISION**  
**of 26 April 2010**  
**appointing one Spanish alternate member of the Committee of the Regions**  
(2010/243/EU)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DECISION:

*Article 1*

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

The following is hereby appointed to the Committee of the Regions as alternate member for the remainder of the current term of office, which runs until 25 January 2015:

Having regard to the proposal of the Spanish Government,

— D. Albert MORENO HUMET

Whereas:

*Secretario para la Unión Europea de la Generalitat de Catalunya.*

*Article 2*

(1) On 22 December 2009 and on 18 January 2010, the Council adopted Decisions 2009/1014/EU and 2010/29/EU appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2010 to 25 January 2015 <sup>(1)</sup>.

This Decision shall take effect on the day of its adoption.

Done at Luxembourg, 26 April 2010.

(2) An alternate member's seat on the Committee of the Regions has become vacant following the end of the term of office of Ms Anna TERRÓN I CUSÍ,

*For the Council*  
*The President*  
M. Á. MORATINOS

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<sup>(1)</sup> OJ L 348, 29.12.2009, p. 22 and OJ L 12, 19.1.2010, p. 11.

## COMMISSION DECISION

of 26 April 2010

**recognising in principle the completeness of the dossiers submitted for detailed examination in view of the possible inclusion of 1,4-dimethylnaphthalene and cyflumetofen in Annex I to Council Directive 91/414/EEC**

*(notified under document C(2010) 2518)***(Text with EEA relevance)**

(2010/244/EU)

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 on the market <sup>(1)</sup>, and in particular Article 6(3) thereof,

Whereas:

- (1) Directive 91/414/EEC provides for the development of a European Union list of active substances authorised for incorporation in plant protection products.
- (2) The dossier for the active substance 1,4-dimethylnaphthalene was submitted by DormFresh Ltd to the authorities of the Netherlands on 25 June 2009 with the application to obtain its inclusion in Annex I to Directive 91/414/EEC.
- (3) The dossier for the active substance cyflumetofen was submitted by Otsuka Chemical Co. Ltd to the authorities of the Netherlands on 21 July 2009 with the application to obtain its inclusion in Annex I to Directive 91/414/EEC.
- (4) The Dutch authorities have indicated to the Commission that, on preliminary examination, the dossiers for the active substances concerned appear to satisfy the data and information requirements set out in Annex II to Directive 91/414/EEC. The dossiers submitted appear also to satisfy the data and information requirements set out in Annex III to Directive 91/414/EEC in respect of one plant protection product containing the active substances concerned. In accordance with Article 6(2) of Directive 91/414/EEC, the dossiers were subsequently

forwarded by the respective applicants to the Commission and other Member States, and were referred to the Standing Committee on the Food Chain and Animal Health.

- (5) By this Decision it should be formally confirmed at European Union level that the dossiers are considered as satisfying in principle the data and information requirements set out in Annex II and, for at least one plant protection product containing the active substances concerned, the requirements set out in Annex III to Directive 91/414/EEC.

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

HAS ADOPTED THIS DECISION:

*Article 1*

The dossiers concerning the active substances identified in the Annex to this Decision, which were submitted to the Commission and the Member States with a view to obtaining the inclusion of those substances in Annex I to Directive 91/414/EEC, satisfy in principle the data and information requirements set out in Annex II to that Directive.

The dossiers also satisfy the data and information requirements set out in Annex III to Directive 91/414/EEC in respect of one plant protection product containing the active substance, taking into account the uses proposed.

*Article 2*

The rapporteur Member State shall pursue the detailed examination for the dossiers referred to in Article 1 and shall communicate to the Commission the conclusions of its examinations accompanied by any recommendations on the inclusion or non-inclusion in Annex I to Directive 91/414/EEC of the active substances referred to in Article 1 and any conditions for those inclusions as soon as possible and by 30 April 2011 at the latest.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 26 April 2010.

*For the Commission*

John DALLI

*Member of the Commission*

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ANNEX

**ACTIVE SUBSTANCES CONCERNED BY THIS DECISION**

No	Common Name, CIPAC Identification Number	Applicant	Date of application	Rapporteur Member State
1	1,4-dimethylnaphthalene CIPAC-No.: not assigned	DormFresh Ltd	25 June 2009	NL
2	Cyflumetofen CIPAC-No.: 821	Otsuka Chemical Co. Ltd	21 July 2009	NL

## COMMISSION DECISION

of 28 April 2010

**granting France a partial derogation from Decision 2006/66/EC concerning the technical specification for interoperability relating to the subsystem 'rolling stock — noise' of the trans-European conventional rail system and from Decision 2006/861/EC concerning the technical specification of interoperability relating to the subsystem 'rolling stock — freight wagons' of the trans-European conventional rail system**

*(notified under document C(2010) 2588)***(Only the French text is authentic)**

(2010/245/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community <sup>(1)</sup>, and in particular Article 9 thereof,

Having regard to the request submitted by France on 27 August 2009,

Whereas:

(1) In accordance with Article 9(1)(d) of Directive 2008/57/EC, on 27 August 2009 France submitted a request for partial derogation from Commission Decision 2006/66/EC <sup>(2)</sup> (TSI noise) and from Commission Decision 2006/861/EC <sup>(3)</sup> (TSI freight wagons), for wagons type NA and AFA of LOHR company.

(2) The request for derogation concerns freight wagons used to transport road trucks over rail which are manufactured according to a design that existed before the entry into force of both TSIs.

(3) In accordance with Article 15 of Regulation (EC) No 881/2004 of the European Parliament and of the Council <sup>(4)</sup>, the European Railway Agency provided its technical opinion on the request for partial derogation on 24 November 2009.

(4) The opinion indicates that the provisions of six sections of TSI freight wagons describing draw gear, lifting and jacking, equipment attachment, kinematic gauge, vehicle dynamic behaviour and parking brake (respectively in

sections 4.2.2.1.2.2, 4.2.2.3.2.4, 4.2.2.3.2.5, 4.2.3.1, 4.2.3.4 and 4.2.4.1.2.8) cannot be applied to the wagons concerned due to their construction constraints implied by specialised kind of transported commodity. Regarding TSI noise, the wagons in question have to use, in combination with composite brake blocks, also louder cast iron blocks in order to achieve required braking performances. Therefore until more silent technology is in place the limits for pass-by noise (section 4.2.1.1 of the TSI) cannot be met.

(5) The overall economical impact of application of the two TSIs, and more specifically of sections 4.2.3.1 and 4.2.3.4 of TSI freight wagons, to the wagons type NA and AFA of LOHR company is estimated to almost EUR 204 million. This amount together with other requirements that would need to be applied to comply with the TSIs would not only heavily compromise the economical viability of the project but also seriously delay or bring to a halt its implementation.

(6) The derogation is granted for a limited period of time that should be used by France to accelerate the development of innovative solutions promoted by the harmonised specifications and compliant with the TSIs in question.

(7) The provisions of this Decision are in accordance with the opinion of the Committee set up by Article 29 of Directive 2008/57/EC,

HAS ADOPTED THIS DECISION:

*Article 1*

The partial derogation from TSI noise and TSI freight wagons requested by France on 27 August 2009 for LOHR wagons type NA and AFA in accordance with Article 9(1)(d) of Directive 2008/57/EC is granted with the following limitations:

<sup>(1)</sup> OJ L 191, 18.7.2008, p. 1.

<sup>(2)</sup> OJ L 37, 8.2.2006, p. 1.

<sup>(3)</sup> OJ L 344, 8.12.2006, p. 1.

<sup>(4)</sup> OJ L 164, 30.4.2004, p. 1.



- (a) with regard to provisions of section 4.2.1.1 of the TSI noise, for as long as no technical solution to achieve compliance is available;

*Article 2*

This Decision is addressed to the French Republic.

- (b) with regard to provisions of sections 4.2.2.1.2.2, 4.2.2.3.2.4, 4.2.2.3.2.5 (type NA only), 4.2.3.1, 4.2.3.4, 4.2.4.1.2.8 of the TSI freight wagons, until the revised decision on TSI freight wagons enters into force.

Done at Brussels, 28 April 2010.

In any case, this partial derogation is no longer valid for wagons of these two types placed into service later than 1 January 2015.

*For the Commission*

Siim KALLAS

*Vice-President*

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**CORRIGENDA****Corrigendum to Guideline of the European Central Bank of 17 July 2009 amending Guideline ECB/2006/16 on the legal framework for accounting and financial reporting in the European System of Central Banks****(ECB/2009/18)***(Official Journal of the European Union L 202 of 4 August 2009)*

On page 81, Annex VIII, liability item 10:

*for:* 'Other liabilities',

*read:* 'Intra-Eurosystem liabilities'.

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