ISSN 1977-0677

Official Journal of the European Union

L 106

English edition

Legislation

Volume 55

18 April 2012

Contents

Price: EUR 3

(Continued overleaf)

[1] Text with EEA relevance

EN

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.

EN

(1) Text with EEA relevance

II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) No 325/2012

of 12 April 2012

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of oxalic acid originating in India and 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 [1] ('the basic Regulation'), and in particular Article 9(4) thereof,

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

Whereas:

1. **PROCEDURE**

1.1. *PROVISIONAL MEASURES*

(1) The Commission, by Regulation (EU) No 1043/2011 [2] ('the provisional Regulation') imposed a provisional anti-dumping duty on imports of oxalic acid originating in India and the People's Republic of China ('the PRC'). The provisional anti-dumping duties ranged from 14,6 % to 52,2 %.

(2) The proceeding was initiated as a result of a complaint lodged on 13 December 2010 by the European Chemical Industry Council (CEFIC) on behalf of Oxaquim S.A. ('the complainant'), representing a major proportion, in this case more than 25 %, of the total Union production of oxalic acid.

(3) As set out in recital 9 of the provisional Regulation, the investigation of dumping and injury covered the period from 1 January 2010 to 31 December 2010 ('investigation period' or 'IP'). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2007 to the end of the investigation period ('period considered').

1.2. *SUBSEQUENT PROCEDURE*

(4) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures ('provisional disclosure'), several interested parties made written submissions making their views known on the provisional findings. The parties who so requested were granted an opportunity to be heard. In particular, one exporting producer from India requested and was afforded a hearing in the presence of the Hearing Officer of the Directorate-General for Trade.

(5) The Commission continued to seek information it deemed necessary for its definitive findings.

(6) Recital 150 of the provisional Regulation invited Chinese companies which had not yet made themselves known but considered that an individual duty should be established for them to come forward within 10 days from publication. No Chinese company did so.

(7) Subsequently, all 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 on imports of oxalic acid originating in India and the PRC and the definitive collection of the amounts secured by way of the provisional duty ('final disclosure'). All parties were granted a period within which they could make comments on this final disclosure.

(8) The oral and written comments submitted by the interested parties were considered and were taken into account where appropriate.

1.3. *PARTIES CONCERNED BY THE PROCEEDING*

(9) In the absence of any comments with regard to the parties concerned by the proceeding, recitals 3 to 8 of the provisional Regulation are hereby confirmed.

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ L 275, 20.10.2011, p. 1.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. *PRODUCT CONCERNED*

(10) The product concerned is as described in recitals 10 and 11 of the provisional Regulation, i.e. oxalic acid, whether in dihydrate (CUS number 0028635-1 and CAS number 6153-56-6) or anhydrous form (CUS number 0021238-4 and CAS number 144-62-7), and whether or not in aqueous solution, currently falling within CN code ex 2917 11 00 and originating in India and the PRC.

(11) There are two types of oxalic acid: unrefined oxalic acid and refined oxalic acid. Refined oxalic acid, which is produced in the PRC but not in India, is manufactured through a purification process of unrefined oxalic acid, the purpose of which is to remove iron, chlorides, metal traces and other impurities.

(12) Oxalic acid is used in a wide range of applications, for example as a reducing and bleaching agent, in pharmaceutical synthesis and in the manufacture of chemicals.

2.2. *LIKE PRODUCT*

(13) The investigation has shown that oxalic acid produced and sold by the Union industry in the Union, oxalic acid produced and sold on the domestic market of India and the PRC and oxalic acid imported into the Union from India and the PRC have essentially the same basic physical and chemical characteristics and the same basic end uses.

(14) In the absence of any comments regarding the product concerned or like product, recitals 10 to 13 of the provisional Regulation are hereby confirmed.

3. DUMPING

3.1. *INDIA*

3.1.1. PRELIMINARY REMARK

(15) In recital 14 of the provisional Regulation, the Commission found that one Indian exporting producer could not be considered as a cooperating party and accordingly the findings for that company were made on facts available as set out in Article 18 of the basic Regulation.

(16) Following the disclosure of provisional findings to this company, Star Oxochem Pvt. Ltd, it provided additional explanations and clarifications in respect of the information submitted earlier in the investigation by the company. It also requested to be heard by the Commission and by the Hearing Officer of the Directorate-General for Trade. The company argued that, given that it had submitted a questionnaire response and bearing in mind that the Commission services had visited the premises of the company and also in light of the additional explanations and clarifications now provided, it would not be appropriate if it were to continue to be treated like exporting producers who had not cooperated in any way with the investigation.

(17) In light of the above, in particular the additional explanations and clarifications provided, the Commission's services consider that they can use part of the original information, namely data related to export prices, as they were found to be reliable. It follows from the above considerations that the provisional findings, as set out in recital 14 of the provisional Regulation, are only partially maintained and findings in respect of this company are made partially on facts available and partially on its own export prices in accordance with Article 18(1) and (3) of the basic Regulation.

3.1.2. NORMAL VALUE

(18) No comments have been submitted in respect of the methodology to calculate normal value for India. Accordingly, the findings in recitals 15 to 18 of the provisional Regulation are confirmed with regard to the cooperating company.

(19) With regard to Star Oxochem, and taking into account the findings above (recitals 16-17), the normal value was established on the basis of facts available pursuant to Article 18(1) of the basic Regulation. Accordingly, the normal value for this company was based on the weighted average of a representative quantity of domestic sales by the other cooperating company, Punjab Chemicals.

3.1.3. EXPORT PRICE

(20) In the absence of any comments, the determination of the export price, as set out in recital 19 of the provisional Regulation, is confirmed with regard to Punjab Chemicals.

(21) In view of the conclusions as set out above in recitals 16-17, the export price for Star Oxochem is, pursuant to Article 2(8) of the basic Regulation, established on the basis of the prices actually paid or payable by independent customers for the product concerned when exported to the Union.

3.1.4. COMPARISON

(22) In the absence of any comments with regard to the comparison of the normal value and the export prices, recitals 20 and 21 of the provisional Regulation are confirmed as far as the cooperating producer, Punjab Chemicals, is concerned.

(23) With regard to Star Oxochem, adjustments have been made in accordance to Article 2(10) of the Basic Regulation based on the verified allowances of Punjab Chemicals.

3.1.5. DUMPING MARGIN

(24) With regard to the cooperating producer no comments have been made on the Commission's provisional findings. Therefore, the dumping margin, as set out in recitals 22 and 23 of the provisional Regulation, is confirmed.

(25) With regard to STAR Oxochem and taking into account the above considerations, the dumping margin, expressed as a percentage of the cif Union border price, duty unpaid is 31,5 %.

(26) In view of the low cooperation from India (below 80 %) it was provisionally considered that the highest dumped transaction of the cooperating party was the most appropriate method for establishing the country-wide dumping margin. This transaction is not exceptional in terms of either quantity or price and is therefore considered a representative sample that leads to a reasonable and proportionate result in relation to the dumping margin established for the cooperating producer.

(27) In view of the above the considerations the findings in recitals 24 and 25 of the provisional Regulation are confirmed.

(28) On this basis the definitive dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, for India are:

Company	Definitive dumping margin
Punjab Chemicals and Crop Protection Limited	22,8 %
Star Oxochem Pvt. Ltd	31,5 %
All other companies	43,6 %

3.2. *PEOPLE'S REPUBLIC OF CHINA*

3.2.1. MARKET ECONOMY TREATMENT (MET)/INDIVIDUAL TREATMENT (IT)

(29) As set out in the provisional Regulation, one group of Chinese companies requested MET or, failing that, IT, while another group of Chinese companies requested IT only. As set out in recitals 26 to 32 of the provisional Regulation, the claim for MET was rejected whereas both groups of companies were provisionally granted IT.

(30) No comments have been submitted in respect of these provisional finding and recitals 26 to 32 of the provisional Regulation are hereby confirmed.

3.2.2. ANALOGUE COUNTRY

(31) No comments were received on the provisional choice of analogue country. Accordingly, recitals 33 to 34 of the provisional Regulation are confirmed.

3.2.3. NORMAL VALUE

(32) It was explained in the provisional Regulation that the Commission established separate normal values for both *unrefined* and *refined* oxalic acid. While the normal value for unrefined oxalic acid was determined on the basis of the normal value established for India, the normal value for refined oxalic acid, which is not produced in India, was constructed on the basis of the manufacturing costs for Indian unrefined oxalic acid, adjusted with an uplift of 12 % to take into account additional manufacturing costs, plus SG&A and profit.

(33) Both cooperating producers from China contested the 12 % uplift for additional manufacturing costs, claiming that these additional costs have never been verified by the Commission and appear to be simply a rough estimation based on a methodology that has not been disclosed to them at the time of the provisional disclosure. One of the exporting producers claimed that it had estimated the additional manufacturing cost at only 5 % although it did not substantiate this claim with any supporting evidence.

(34) It is pointed out that the uplift has been determined on the basis of information provided by the cooperating Chinese exporting producers themselves. First, it is noted that the same company which now alleges that the additional manufacturing cost is only around 5 % had originally explicitly referred to additional costs of 10-15 % in its MET/IT claim form. Second, during the verification visits at the companies' premises, both cooperating producers confirmed that the additional costs for manufacturing refined oxalic acid as compared to unrefined oxalic acid were in the band of 10-12 %. Third, this latter level of 10-12 % additional manufacturing cost was also supported by calculations of the Union industry. In view of the information provided by the cooperating producers an uplift of 12 % was considered appropriate.

(35) Therefore in the absence of any substantiated information or supporting evidence justifying a lower uplift the findings in recitals 35 to 37 of the provisional Regulation are hereby confirmed.

3.2.4. EXPORT PRICE

(36) Both exporting producers from the PRC were granted IT, therefore their export prices were based on the prices actually paid or payable by the first independent customer in the Union in accordance with Article 2(8) of the basic Regulation.

(37) In the absence of comments with regard to the export price, recital 38 of the provisional Regulation is hereby confirmed.

3.2.5. COMPARISON

(38) One of the cooperating producers claimed that the SG&A expenses of its related trader and commissions should not be removed from the export price as an adjustment under Article 2(10)(i) of the basic Regulation. The producer stated that the direct selling costs of their related trader had already been removed from the export price in order to arrive at an ex-works price to compare with the normal value on the same basis.

(39) The producer argued that their related trader was a wholly owned subsidiary and, in view of the export profit distribution strategy within the group, did not charge any commission. Furthermore, according to the company, the remaining SG&A expenses represented the combined costs of operating the company and were not expenses directly related to sales and should therefore not be removed from the export price.

(40) Article 2(10)(i) of the basic Regulation states that commissions are to be understood to include the mark-up received by a trader if the functions of such a trader are similar to those of an agent working on a commission basis. It is therefore irrelevant whether a commission was actually paid or not. What is relevant is whether the trader re-sold the goods with a mark-up and whether the functions of the trader were similar to those of an agent.

(41) Evidence on file, obtained before and during the inspection of the trading company, shows that the trader during the IP sold oxalic acid produced by the related producer to a customer in the EU. At the same time the producer was also exporting directly to the same customer in the EU. The related trader therefore duplicated the effort of the producer with different staff in a different office in a different city, thereby incurring its own costs that are reflected in their export price.

(42) It is also clear from evidence on file that the trading company purchased the exported goods from the related exporting producer and re-sold them, with a mark-up, in its own name, after having itself concluded price negotiations with the final independent customer.

(43) Evidence was also collected regarding the trading company performing the functions of an agent. This evidence firstly shows that the producer sold significant volumes of the product concerned directly to the EU as well as exporting to the EU via their related trading company. Only about one third of sales to the EU were made via this related company. The trader also re-sold oxalic acid from other unrelated producers. Evidence on file shows that over half of the trader's purchases of oxalic acid were from unrelated suppliers and less than half of their purchases came from their related producer.

(44) The trader could thus not be considered as the internal export sales department of the producing exporter despite its relationship with the exporting producer.

(45) It is also clear from evidence submitted and verified that the trader only pays for the goods supplied from the related exporting producer once the customer in the EU has paid the trader. The financial risk therefore remains with the producer and not the trader.

(46) It was therefore considered that the trader was carrying out functions similar to those of an agent working on a commission basis. Accordingly, the claim that no adjustments should be made for commission under Article 2(10)(i) is rejected.

(47) Also the claim that SG&A expenses should not be taken into account as they do not include direct selling expenses cannot be accepted. Such overhead costs have an impact on the cost structure of the company and therefore affect the export price. Therefore, a portion of these costs was removed from the export price to allow for a fair comparison of normal value and export price, ex-works. This claim is rejected.

(48) The commission has been established on the basis of the profit margin of an unrelated EU importer rather than on the actual mark-up of the trader, which was significantly higher. This methodology was deemed more appropriate as the actual mark-up would have been based on internal transfer prices not reflecting actual market conditions.

(49) In the absence of any further comments with regard to the comparison of the normal value and the export price, recitals 39 to 44 of the provisional Regulation are hereby confirmed.

3.2.6. DUMPING MARGINS

For the cooperating exporting producers

(50) One group of exporting producers claimed that individual dumping margins should be established separately for unrefined and refined oxalic acid. They argued that although dumping margins were established on the basis of a comparison of the weighted average normal value with the weighted average export price of the product concerned type by type, one common dumping margin for both types of oxalic acid was established. They claimed that it would be more appropriate to establish a dumping margin for each type of oxalic acid as the group consists of two producing companies of which one produces refined oxalic acid while the other produces unrefined oxalic acid.

(51) Unrefined oxalic acid can be substituted by refined oxalic acid. Both types of oxalic acid are included under the same CN code and the different types cannot easily be distinguished from each other. The purity of the oxalic acid is the same, the difference is in the levels of other products in the remaining 'waste' product. As they both fall within the definition of the product concerned, one dumping margin has been established in line with usual practice. Given the significant price difference between the two types and the difficulties involved in distinguishing them from each other individual dumping margins for refined and unrefined oxalic acid would lead to an increased risk of circumvention. The claim

to have individual dumping margins for refined and unrefined oxalic acid, is rejected and the dumping margins, as established in recitals 45 and 46 of the provisional Regulation, are confirmed.

(52) Finally, the same exporting producer group questioned the different dumping margins established for the two groups of exporting producers from the PRC and requested clarification of the calculation methodology and the classification of refined and unrefined oxalic acid, given the difference in the dumping margins found between the two groups of exporters.

(53) The same methodology has been used in respect of both groups of exporting producers from the PRC and the weighted average export price of the product concerned includes both refined and unrefined oxalic acid. The explanation as to the different dumping margins rests therefore simply on the relative weight of exports of the respective types, considering that refined oxalic acid is normally sold at a higher price than unrefined.

(54) The definitive dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are:

Company	Definitive dumping margin
Shandong Fengyuan Chemicals Stock Co., Ltd and Shandong Fengyuan Uranus Advanced material Co., Ltd	37,7 %
Yuanping Changyuan Chemicals Co., Ltd	14,6 %

For all other non-cooperating exporting producers

(55) In the absence of other comments with regard to the dumping margins, recitals 47 to 48 of the provisional Regulation are hereby confirmed.

(56) On this basis the country-wide level of dumping is definitely established at 52,2 % of the CIF Union frontier price, duty unpaid, and recital 49 of the provisional Regulation is hereby confirmed.

4. **INJURY**

4.1. *UNION PRODUCTION AND UNION INDUSTRY*

(57) An exporting producer submitted that the reference to two Union producers constituting the Union industry in recitals 50 and 51 of the provisional Regulation (the complainant and a second non-cooperating producer) did not properly reflect the situation regarding macro economic indicators. It was also argued that data regarding the non-cooperating producer as well as the data from a third Union producer having stopped the production of OA should be disregarded and not be included in some macro indicators (see recitals 72, 74 and 78 of the provisional Regulation). First, it is hereby confirmed that contrary to what was stated in recitals 50 and 51 of the provisional Regulation, there were in fact three producers of the product concerned in the Union during the period considered constituting the Union industry within the meaning of Article 4(1) of the basic Regulation, which thus represent 100 % of the Union production. Second, the claim that figures pertaining to the non-cooperating producer and the third Union producer having ceased its operation in 2008 should be disregarded is rejected, as it is correct to include all known figures related to the period considered for the purpose of the injury analysis in order to achieved the best informed representation of the economic situation of the Union industry as prescribed in Article 4(1) of the basic Regulation.

(58) The same exporting producer also argued that the reasons for which this third producer has ceased its production of the like product were not properly examined during the investigation. However, this matter was examined during the investigation and the company simply invoked the fact that it had stopped the production of the like product for 'internal reasons' without giving any further explanations. In addition, one exporting producer concurred with this explanation and claimed that the decision to stop the production was not due to the alleged dumping practices from exporting producers in China, thus contradicting the information which was made available by the complainant in the non-confidential version of the complaint, in which it is stated that '[the company] ceased production, once and for all, closing the factory because of aggressive dumping from China and India'. However, the exporting producer did not provide any different information with regard to the alleged production figures related to this third Union producer. Therefore, this issue does not devaluate the fact that the data related to that third EU producer could be used in the current investigation.

(59) Another exporting producer argued that the minimum threshold for the standing at initiation was not properly disclosed and in fact was not met. As mentioned in recital 2 of the provisional Regulation, the complainant represented more than 25 % of the total Union production of oxalic acid and no producer expressing opposition has come forward prior to the initiation of the investigation. An information note was made available in the non-confidential file summarising the results of the standing examination at initiation stage. Furthermore, the injury analysis made pursuant to Article 4(1) of the basic Regulation covered a major proportion of the Union Industry.

(60) In the absence of any further comments concerning the definition of the Union production and the Union industry, recitals 50 and 51 of the provisional Regulation are hereby confirmed subject to the clarification in recital 57 above.

4.2. *DETERMINATION OF THE RELEVANT UNION MARKET*

(61) An exporting producer submitted that captive use of oxalic acid should not be considered in the determination of some injury indicators and in any case the same consistent approach should be applied to all injury indicators. However, the separation made between the captive and the free markets was explained in recitals 52, 53 and 55 of the provisional Regulation and in line with the basic Regulation, the focus of the analysis was primarily on the free market, even though, both the use in the free and the captive markets were included for the determination of some injury indicators as indicated in recital 55. Indeed, some injury indicators can only be examined in regard to the use of the like product in the free market as, given the very nature of captive sales, such indicators can be distorted by the relationship between the seller and buyer. Therefore, this claim is rejected.

(62) In the absence of any other comments concerning the determination of the relevant Union market, recitals 52 to 55 of the provisional Regulation are hereby confirmed.

4.3. *UNION CONSUMPTION*

(63) In the absence of any comments concerning the Union consumption, recitals 56 to 58 of the provisional Regulation are hereby confirmed.

5. IMPORTS FROM THE COUNTRIES CONCERNED

5.1. *CUMULATIVE ASSESSMENT OF THE EFFECTS OF THE IMPORTS CONCERNED*

(64) In the absence of any comments concerning the cumulative assessment of the effects of the imports concerned, recitals 59 to 62 of the provisional Regulation are hereby confirmed.

5.2. *VOLUME AND MARKET SHARE OF DUMPED IMPORTS FROM THE COUNTRIES CONCERNED*

(65) In the absence of any comments concerning the volume and the market share of the imports from the countries concerned, recitals 63 and 64 of the provisional Regulation are hereby confirmed.

5.3. *PRICE OF DUMPED IMPORTS AND PRICE UNDERCUTTING*

(66) As mentioned in recital 144 of the provisional regulation, in the injury margin calculation, the average import prices of the cooperating exporting producers in the PRC and India have been duly adjusted for importation costs and customs duties. An exporting producer argued however that the Commission failed to include fully an allowance of 6,5 % corresponding to the normal customs duty in the injury margin calculation. This claim was found to be warranted and the injury margins calculations were corrected accordingly for this exporting producer, as well as for the other cooperating exporting producers. However, this had no impact on the proposed definitive measures as indicated in recital 87 below.

(67) In the absence of any other comments concerning the price of dumped imports and price undercutting, recitals 65 to 68 of the provisional Regulation are hereby confirmed.

6. ECONOMIC SITUATION OF THE UNION INDUSTRY

(68) As mentioned in recital 57 above, an exporting producer submitted that the figures related to a third Union producer which ceased the production of oxalic acid in 2008 should not have been included in some macro indicators (see recitals 72, 74 and 78 of the provisional Regulation). However there are in fact three producers of the like product in the Union constituting the Union industry within the meaning of Article 4(1) of the basic Regulation, representing 100 % of the Union production throughout the whole period considered, even though one producer stopped producing oxalic acid before the IP. The claim that figures pertaining to the third Union producer having ceased its operation in 2008 should be disregarded is rejected, as it is correct to include all production figures related to the period considered for the purpose of determining the economic situation of the Union industry.

(69) The same exporting producer argued that notwithstanding the alleged error mentioned in recital 66 above, the figures related to the number of employees, total yearly wages and average labour costs per employee in Table 6 of the provisional Regulation did not tally. However, the exporting producer did not refer to the correct figure when stating that average wages rose by 21 %, in fact, the right figure is 19 %.

(70) With regard to the economic crisis recitals 95 to 97 of the provisional Regulation clearly show that imports from the countries concerned continued to gain market share despite the decline in consumption and had a negative impact on various injury indicators such as sales volumes, employment, production capacity and market share.

(71) In the absence of any comments regarding recitals 69 to 94 of the provisional Regulation, these recitals are hereby confirmed.

7. CONCLUSION ON INJURY

(72) An exporting producer argued that contrary to the provisional findings, the Union industry did not suffer material injury. It was claimed that, overall, the negative trends regarding the Union industry were due to the effects of the economic crisis in 2008 and the erroneous inclusion of the information related to the third Union producer having ceased its production in 2008, which contributed to give a vitiated representation of the injury situation. However, as mentioned above the

inclusion of the third producer was considered to be correct and market share of the countries concerned continued to increase despite the crisis.

(73) Therefore, recitals 94 to 98 of the provisional Regulation concluding that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation are hereby confirmed.

8. CAUSATION

(74) One exporting producer stated that the inclusion of data related to a third Union producer having ceased its production of oxalic acid in 2008 was distorting the provisional conclusions regarding the causal link analysis, which should be based on current producers only. Similarly to the injury analysis above, it was found that conversely, not to include this third producer would distort the conclusions in relation to the like product. However, as mentioned in recital 57 above, relevant data for this company should also be included in the analysis of the situation of the Union industry and this claim is therefore rejected.

(75) One exporting producer argued that as the import volume of the dumped imports increased at the same time as the profitability situation of the Union industry has improved, the dumped imports could not be the main cause of injury. However, this minor improvement regarding profitability does not devalue the conclusion that the overall profitability remained very low and under the normal profit of 8 %. Furthermore, despite the fact that consumption increased substantially in 2008 and again during the IP the Union industry lost 9 % market share against the Chinese imports during the period considered.

(76) Another exporting producer argued that based on the information available, the Union industry achieved in the IP, a profit which was very close to the target profit of 8 %. As the information regarding profits relates to only one Union producer, the precise profit levels cannot be published. However, as stated in recital 88 of the provisional regulation, the complainant made a small profit in the IP, after having made a loss in 2009. The assumptions that the exporting producer used to conclude that the profit in the IP was allegedly close to the target profit were in fact not correct as they did not include the relevant financial and production data of the complainant, which for confidential reasons could not be disclosed. The profit level of the complainant has been thoroughly verified, including during an on-spot verification visit and therefore, allegations that the profit achieved in the IP was very close to the target profit were found to be incorrect.

(77) In the absence of any other comments concerning causation, recitals 99 to 122 of the provisional Regulation are hereby confirmed.

9. UNION INTEREST

(78) Two importers argued that the measures could lead to shortages of oxalic acid in the EU. Allegedly, the Union industry cannot meet the demand in the EU for oxalic acid.

(79) The investigation revealed that during the IP, the complainant had spare capacities. Furthermore, the complainant stated that currently it is increasing its production, even though, as the production of the product concerned is based on chemical reactions, increasing capacity utilisation requires some time. However, based on the EU consumption data and the total EU capacity, it can be considered that the complainant is capable of meeting total Union demand for unrefined oxalic acid once it is producing close to full capacity. With regard to refined oxalic acid it is recalled that most of the refined oxalic acid is used in the production of products that are subsequently exported, the users could operate under the inward processing regime. In addition, the main Chinese exporter of refined oxalic acid is the one with the lowest proposed duty (14,6 %).

(80) In addition, the complainant argued that the global oxalic market (unrefined) is dominated by the Chinese producers which are setting the price level for this product. Currently the Chinese producers are more preoccupied with their domestic market and it cannot be excluded that in the absence of measures and the probable disappearance of the only remaining EU producer of unrefined oxalic acid, users in the EU would face security of supply problems potentially with chronic shortages and oligopolistic prices.

(81) Another importer/user operating in a different downstream market segment than the previous one alleged that the existence of provisional measures had a negative impact on the profitability of its own products for which oxalic acid is the main raw material, without however, providing any further details. The company was invited to attend a hearing to further develop these concerns and provide evidence, but did not react. Therefore, these allegations could not be verified.

(82) In the absence of any other comments concerning the Union interest, recitals 123 to 139 of the provisional Regulation are hereby confirmed.

10. DEFINITIVE ANTI-DUMPING MEASURES

10.1. *INJURY ELIMINATION LEVEL*

(83) As mentioned above in recital 66 an exporting producer argued that the Commission failed to include an allowance of 6,5 % corresponding to the normal customs duty in the injury margin calculation. This

claim was found to be partially correct as for some imports that were delivered to the EU customer on a duty paid basis, the duty had been underestimated. Therefore the injury margins were corrected accordingly, without however having, any significant impact on the proposed definitive measures (see recital 87 below).

(84) In view of the conclusions reached with regard to Star Oxochem, an injury margin was also established for this exporting producer on the basis of the same calculation methodology as laid down in recitals 142 to 144 of the provisional Regulation.

(85) In the absence of comments on the injury elimination level, recitals 145 to 148 of the provisional Regulation are confirmed.

10.2. *FORM AND LEVEL OF THE DUTIES*

(86) In the light of the foregoing and in accordance with Article 9(4) of the basic Regulation, a definitive anti-dumping duty should be imposed at the level of the dumping margins found, since for all the exporting producers concerned the injury margins were found to be higher than the dumping margins.

(87) On the basis of the above, the dumping and injury margins established are as follows:

Company/group name	Injury margin (%)	Dumping margin (%)	Provisional duty (%)	Proposed duty (%)
India				
Punjab Chemicals and Crop Protection Limited (PCCPL)	38,9	22,8	22,8	22,8
Star Oxochem Pvt. Ltd	32,3	31,5	43,6	31,5
All other companies	47,9	43,6	43,6	43,6
PRC				
Shandong Fengyuan Chemicals Stock Co., Ltd and Shandong Fengyuan Uranus Advanced Material Co., Ltd	53,3	37,7	37,7	37,7
Yuanping Changyuan Chemicals Co., Ltd	18,7	14,6	14,6	14,6
All other companies	63,5	52,2	52,2	52,2

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

(89) Any claim requesting the application of these individual anti-dumping duty rates (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 the relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will then be amended accordingly by updating the list of companies benefiting from individual duty rates.

(90) All 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 on imports of oxalic acid originating in the PRC and India. They were also granted a period of time within which they could make representations subsequent to the final disclosure.

(91) The comments submitted by the interested parties were duly considered. None of the comments was such as to alter the findings of the investigation.

(92) In order to ensure a proper enforcement of the anti-dumping duty, the residual duty level should not only apply to the non-cooperating exporters, but also to those

[1] European Commission,
Directorate-General for Trade,
Directorate H, Office: N105 04/092,
1049 Bruxelles/Brussel,
BELGIQUE/BELGIË

companies which did not have any exports during the IP. However, the latter companies are invited, when they fulfil the requirements of Article 11(4) of the basic Regulation, second paragraph, to present a request for a review pursuant to that Article in order to have their situation examined individually.

10.3. *DEFINITIVE COLLECTION OF PROVISIONAL DUTIES*

(93) In view of the magnitude of the dumping margins found and in the light of the level of the injury caused to the Union industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation should be definitively collected to the extent of the amount of the definitive duties imposed. Where the definitive duties are lower than the provisional duties, the amount provisionally secured in excess of the definitive rate of anti-dumping duties should be released.

11. **UNDERTAKINGS**

(94) One exporting producer in India and two exporting producers in the People's Republic of China offered price undertakings in accordance with Article 8(1) of the basic Regulation.

(95) The product concerned has shown in the last years a considerable volatility in prices and therefore it is not suitable for a fixed price undertaking. In order to overcome this problem, the Indian exporting producer offered an indexation clause without, however, determining the respective minimum price (MIP). In this respect it is noted that no direct link between the fluctuation of prices and that of the main raw material could be established and, thus, indexation is not considered appropriate. In addition, the level of cooperation of this company throughout the investigation and the accuracy of the data it had provided was not ideal. Accordingly, the Commission was not satisfied that an undertaking from this company could be effectively monitored.

(96) Moreover, in relation to the exporting producers in the PRC, the investigation established that there are different types of the product concerned which are not easily distinguishable and have considerable differences in prices. The single MIP for all product types offered by one of the Chinese exporting producers would therefore not eliminate the injurious effect of dumping. Furthermore, both exporting producers concerned in the PRC are producers of different types of other chemical products and may sell these products to common customers in the European Union via related trading companies. This would create a serious risk of cross-compensation and would render extremely difficult to monitor effectively the undertaking. The different MIPs proposed by the other Chinese exporting producer would also render the monitoring impracticable due to the complexity of distinction between the various product types. On the basis of the above, it was concluded that the undertaking offers cannot be accepted,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of oxalic acid, whether in dihydrate (CUS number 0028635-1 and CAS number 6153-56-6) or anhydrous form (CUS number 0021238-4 and CAS number 144-62-7) and whether or not in aqueous solution, currently falling within CN code ex 2917 11 00 (TARIC code 2917 11 00 91) and originating in India and the People's Republic of China.

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

Country	Company	Anti-dumping duty rate %	TARIC additional code
India	Punjab Chemicals and Crop Protection Limited	22,8	B230
	Star Oxochem Pvt. Ltd	31,5	B270
	All other companies	43,6	B999
PRC	Shandong Fengyuan Chemicals Stock Co., Ltd; Shandong Fengyuan Uranus Advanced Material Co., Ltd	37,7	B231
	Yuanping Changyuan Chemicals Co., Ltd	14,6	B232
	All other companies	52,2	B999

3. The application of the individual duty rate specified for the companies listed in paragraph 2 of this Article shall be conditional upon presentation to the customs authority of the Member States of a valid commercial invoice, which shall conform with the requirements set out in the Annex. If no such invoice is presented, the duty applicable to all other companies shall apply.

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

Article 2

The amounts secured by way of the provisional anti-dumping duty pursuant to Commission Regulation (EU) No 1043/2011 shall be definitively collected. The amounts secured in excess of the amount of the definitive anti-dumping duties shall be released.

Article 3

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

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

Done at Brussels, 12 April 2012.

For the Council
The President
N. WAMMEN

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 which has issued the commercial invoice.

(2) The following declaration:

'I, the undersigned, certify that the (volume) of oxalic acid sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in (country concerned). I declare that the information provided in this invoice is complete and correct.'

Date and signature

COMMISSION IMPLEMENTING REGULATION (EU) No 326/2012

of 17 April 2012

on the division between 'deliveries' and 'direct sales' of national milk quotas fixed for 2011/2012 in Annex IX to Council Regulation (EC) No 1234/2007

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], and in particular Article 69(1) in conjunction with Article 4 thereof,

Whereas:

(1) Article 67(2) of Regulation (EC) No 1234/2007 provides that producers may have one or two individual quotas, one for deliveries and the other for direct sales and quantities may be converted from one quota to the other only by the competent authority of the Member State, at the duly justified request of the producer.

(2) Commission Implementing Regulation (EU) No 471/2011 of 16 May 2011 on the division between 'deliveries' and 'direct sales' of national milk quotas fixed for 2010/2011 in Annex IX to Council Regulation (EC) No 1234/2007 [2] sets out the division between 'deliveries' and 'direct sales' for the period from 1 April 2010 to 31 March 2011 for all Member States.

(3) In accordance with Article 25(2) of Commission Regulation (EC) No 595/2004 of 30 March 2004 laying down detailed rules for applying Council Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector [3], Member States have notified the quantities which have been definitively converted at the request of the producers between individual quotas for deliveries and for direct sales.

(4) The total national quotas for all Member States fixed in point 1 of Annex IX to Regulation (EC) No 1234/2007 as amended by Council Regulation (EC) No 72/2009 [4] were increased with 1 %, effective from 1 April 2011, except for Italy whose quota was already increased with 5 %, effective from 1 April 2009. Member States, except Italy, have notified the Commission of the division between 'deliveries' and 'direct sales' of the additional quota.

(5) It is therefore appropriate to establish the division between 'deliveries' and 'direct sales' of the national quotas applicable for the period from 1 April 2011 to 31 March 2012 fixed in Annex IX to Regulation (EC) No 1234/2007.

(6) Given the fact that the division between direct sales and deliveries is used as a reference basis for controls pursuant to Articles 19 to 21 of Regulation (EC) No 595/2004 and for the establishment of the annual questionnaire set out in Annex I to that Regulation, it is appropriate to determine a date of expiry of this Regulation after the last possible date for these controls.

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

HAS ADOPTED THIS REGULATION:

Article 1

The division, applicable for the period from 1 April 2011 to 31 March 2012, between 'deliveries' and 'direct sales' of the national quotas fixed in Annex IX to Regulation (EC) No 1234/2007 is set out in the Annex to this Regulation.

Article 2

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

It shall expire on 30 September 2013.

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

Done at Brussels, 17 April 2012.

For the Commission
The President
José Manuel BARROSO

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 129, 17.5.2011, p. 7.
[3] OJ L 94, 31.3.2004, p. 22.
[4] OJ L 30, 31.1.2009, p. 1.

ANNEX

Member States	Deliveries (tonnes)	Direct sales (tonnes)
Belgium	3 490 842,018	40 296,998
Bulgaria	957 790,177	71 047,796
Czech Republic	2 861 138,931	16 171,977
Denmark	4 752 211,900	174,604
Germany	29 630 671,304	90 854,772
Estonia	672 069,563	7 203,106
Ireland	5 668 140,684	2 305,582
Greece	861 075,872	1 207,000
Spain	6 362 294,270	66 051,426
France	25 496 618,465	354 995,374
Italy	10 967 026,636	321 516,230
Cyprus	151 790,553	801,146
Latvia	747 127,365	18 613,933
Lithuania	1 716 083,974	75 543,299
Luxembourg	286 485,893	500,000
Hungary	1 947 083,970	144 284,054
Malta	51 177,070	0,000
Netherlands	11 737 724,915	75 325,428
Austria	2 846 561,156	87 198,758
Poland	9 702 182,671	155 475,456
Portugal ([1])	2 039 660,805	8 084,069
Romania	1 515 028,445	1 697 594,315
Slovenia	585 410,695	20 582,227
Slovakia	1 055 742,726	38 028,690
Finland ([2])	2 563 117,735	5 105,650
Sweden	3 518 813,075	4 400,000
United Kingdom	15 436 313,929	147 162,755

([1]) Except Madeira.
([2]) The Finnish national quota as referred to in Annex IX to Regulation (EC) No 1234/2007 and the total amount of the Finnish national quota as indicated in the Annex to this Regulation differ due to a quota increase of 784 683 tonnes to compensate Finnish SLOM producers pursuant to Article 67(4) of Regulation (EC) No 1234/2007.

COMMISSION IMPLEMENTING REGULATION (EU) No 327/2012

of 17 April 2012

amending Regulation (EU) No 1291/2009 as regards the threshold for the economic size and the number of returning holdings in Slovakia

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1217/2009 of 30 November 2009 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Community [1], and in particular Article 5(4) thereof,

Whereas:

(1) Article 2 of Commission Regulation (EU) No 1291/2009 of 18 December 2009 concerning the selection of returning holdings for the purpose of determining incomes of agricultural holdings [2] sets the thresholds for the economic size of agricultural holdings for the accounting year 2010 and subsequent accounting years.

(2) Ongoing structural change and a better understanding of the farming structure in Slovakia have led to the conclusion that adjustments should be made to the selection plan of Slovakia in order for the field of survey to cover the most relevant part of the agricultural activity. In order to achieve this, the threshold for the economic size of agricultural holdings for Slovakia should be increased from EUR 15 000 to EUR 25 000.

(3) In the Annex to Regulation (EU) No 1291/2009 the total number of returning holdings for Slovakia has been fixed at 523. In order to guarantee a better representativeness of the Slovak sample, the number of returning holdings for Slovakia should be increased by 39 and fixed at 562 returning holdings.

(4) Regulation (EU) No 1291/2009 should therefore be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Community Committee for the Farm Accountancy Data Network,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 1291/2009 is amended as follows:

(1) in Article 2, the indent concerning Slovakia is replaced by the following:

'— Slovakia: EUR 25 000';

(2) the Annex is amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from the 2013 accounting year.

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

Done at Brussels, 17 April 2012.

For the Commission
The President
José Manuel BARROSO

[1] OJ L 328, 15.12.2009, p. 27.
[2] OJ L 347, 24.12.2009, p. 14.

ANNEX

The row concerning Slovakia in the Annex to Regulation (EU) No 1291/2009 is replaced by the following:

'810	SLOVAKIA	562'

COMMISSION REGULATION (EU) No 328/2012

of 17 April 2012

amending Regulation (EC) No 62/2006 concerning the technical specification for interoperability relating to the telematic applications for freight subsystem of the trans-European conventional rail system

(Text with EEA relevance)

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 [1], and in particular Article 6(1) thereof,

Whereas:

(1) The Commission has received the recommendation of the European Railway Agency ERA/REC/06-2011/INT of 12 May 2011.

(2) Each technical specification for interoperability (TSI) should indicate the strategy for implementing the TSI and the stages to be completed in order to make a gradual transition from the existing situation to the final situation in which compliance with the TSIs shall be the norm. The strategy to implement the telematic applications for freight services (TAF) TSI should not only rely on compliance of subsystems with the TSI but it should also be based on a coordinated implementation.

(3) Commission Regulation (EC) No 62/2006 of 23 December 2005 concerning the technical specification for interoperability relating to the telematic applications for freight subsystem of the trans-European conventional rail system [2] should be aligned with Chapter 7 of Commission Regulation (EU) No 454/2011 of 5 May 2011 on the technical specifications for interoperability relating to the subsystem 'telematics applications for passenger services' of the trans-European rail system [3] where relevant.

(4) In accordance with Article 3 of Regulation (EC) No 62/2006, the representative bodies of the European railway sector have sent a Strategic European Deployment Plan (SEDP) for the implementation of the Telematics Applications for Freight to the European Commission. This work should be taken into account by modifying Annex A to the Annex. Annex A refers to the detailed specifications that are the basis for the development of the TAF system. These documents need to be put under a change management process. Through this process, the Agency should update these documents in order to clarify what the baseline is for the implementation.

(5) The individual schedules of the SEDP submitted in 2007 are outdated. Railway undertakings, infrastructures managers and wagon keepers should therefore submit to the Commission through the Steering Committee their detailed schedules indicating the intermediate steps, deliverables and dates for the implementation of the individual TAF TSI functions. Any divergence from schedules of the SEDP should be duly justified with the mitigating measures undertaken to limit further delays. This work should be based on the assumption that change requests processed in accordance with Section 7.2.2 of the Annex would be validated.

(6) There is a need to inform all addressees of their obligations in this Regulation, in particular small freight operators which are not members of the representative bodies of the European railway sector.

(7) Regulation (EC) No 62/2006 should therefore be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee established in accordance with Article 29(1) of Directive 2008/57/EC,

HAS ADOPTED THIS REGULATION:

Article 1

The following Articles 4a, 4b and 4c shall be inserted to Regulation (EC) No 62/2006:

'Article 4a

1. Railway undertakings, infrastructures managers and wagon keepers shall develop and deploy the computerised system in accordance with the provisions of Chapter 7 of the Annex to this Regulation, and in particular in accordance with the functional requirement specifications and with the master plan referred to in Section 7.1.2.

2. Railway undertakings, infrastructures managers and wagon keepers shall submit to the Commission through the Steering Committee referred to in Section 7.1.4 of the Annex not later than 13 May 2012 the master plan referred to in Section 7.1.2 based on their detailed schedules indicating the intermediate steps, deliverables and dates for the implementation of the individual TAF TSI functions.

3. They shall report on their progress to the Commission through the Steering Committee referred to in Section 7.1.4 of the Annex following the provisions of Chapter 7 of the Annex to this Regulation.

Article 4b

1. The Agency shall publish the master plan referred to in Section 7.1.2, and keep it up to date.

[1] OJ L 191, 18.7.2008, p. 1.
[2] OJ L 13, 18.1.2006, p. 1.
[3] OJ L 123, 12.5.2011, p. 11.

2. The Agency shall update the documents referred to in Annex A on the basis of change requests that are validated before 13 May 2012 in accordance with the change management process described in Section 7.2.2. The Agency shall submit a recommendation to the Commission by 13 October 2012 on the update of Annex A which sets the baseline for implementation.

3. The Agency shall assess the implementation of TAF with a view to determining whether the objectives pursued and deadlines have been achieved.

Article 4c

Member States shall ensure that all railway undertakings, infrastructure managers, wagon keepers established on their territory are informed of this Regulation and shall designate a national contact point for the follow-up of its implementation.'

Article 2

The Annex to Regulation (EC) No 62/2006 shall be amended as follows:

(1) Sections 7.1, 7.2 and 7.3 are replaced by the text set out in Annex I to this Regulation.

(2) Annex A is replaced by the text set out in Annex II to this Regulation.

(3) In Section 2.3.1, in the paragraph starting with 'some specific service providers…', the text '(see also Annex A index 6)' is deleted.

(4) In Sections 4.2, 4.2.3.1, 4.2.4.1, 4.2.8.1, the reference to 'index 1' is replaced by a reference to 'Appendix F'.

(5) In Section 4.2.1.1, the sentence

'These data, including the additional ones, are (for the description of the data see Annex A index 3) listed in the table in Annex A index 3 with the indication in row "Data in Consignment Note", whether they are mandatory or optional and whether they must be delivered by the Consignor or supplemented by the LRU.'

is replaced by

'These data, including the additional ones, are (for the description of the data see Annex A — Appendices A, B, F and Annex 1 to Appendix B) listed in the table in Annex A — Annex 1 to Appendix B with the indication in row "Data in Consignment Note", whether they are mandatory or optional and whether they must be delivered by the Consignor or supplemented by the LRU.'

(6) In Section 4.2.1.2, the sentences

'The data of the wagon orders according to the various roles of an RU are listed in detail in Annex A index 3, marked as to whether they are mandatory or optional. The detailed formats of these messages are defined in Annex A index 1.'

is replaced by

'The data of the wagon orders according to the various roles of an RU are listed in detail in Annex A — Appendices A and B and Annex 1 to Appendix B, marked as to whether they are mandatory or optional. The detailed formats of these messages are defined in Annex A Appendix F.'

(7) In Section 4.2.2.1, 'index 4' is replaced by 'Appendix F', and 'index 1' is replaced by 'Appendix F'.

(8) In Section 4.2.11.2, 'index 2' is replaced by 'Appendices D and F'.

(9) In Section 4.2.11.3, 'index 2' is replaced by 'Appendices A, B, F and Annex 1 to Appendix B'.

(10) In Section 6.2, 'index 1' is replaced by 'Appendices E and F'.

Article 3

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

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

Done at Brussels, 17 April 2012.

For the Commission
The President
José Manuel BARROSO

ANNEX I

7.1. **Modalities of application of this TSI**

7.1.1. *Introduction*

This TSI concerns the subsystem telematics applications for freight services. This subsystem is functional according to Annex II to Directive 2008/57/EC. The application of this TSI therefore does not rely on the notion of new, renewed or upgraded subsystem, as is customary in the case of TSIs related to structural subsystems, except where it is specified in the TSI.

The TSI is implemented in phases:

— phase one: detailed IT specifications and master plan,

— phase two: development,

— phase three: deployment.

7.1.2. *Phase one — detailed IT specifications and master plan*

The functional requirement specifications which shall be used as basis for above technical architecture during the development and deployment of the computerised system are in the Appendices A to F of Annex A.

The mandatory master plan from-concept-to-delivery of the computerised system, based on the Strategic European Deployment Plan (SEDP) prepared by the rail sector, includes the core architecture components of the system and the identification of the major activities which shall be executed.

7.1.3. *Phase 2 and 3 — development and deployment*

Railway undertakings, infrastructures managers and wagon keepers shall develop and deploy the TAF computerised system in accordance with the provisions of Chapter 7.

7.1.4. *Governance, roles and responsibilities*

The development and deployment shall be put under a governance structure with following actors.

The Steering Committee

The Steering Committee shall have following roles and responsibilities:

1. The Steering Committee shall provide for the strategic management structure to efficiently manage and coordinate the work for implementing the TAF TSI. This shall involve setting the policy, the strategic direction and prioritisation. In doing so, the Steering Committee shall also take into account the interests of small undertakings, new entrants, and railway undertaking providing specific services.

2. The Steering Committee shall monitor the implementation progress. It shall regularly report to the European Commission about the progress achieved compared with the master plan, at least four times a year. The Steering Committee shall make the necessary steps to adjust above development in the case of a deviation from the master plan.

3. The Steering Committee shall be composed by

   — the representative bodies from the railway sector acting on a European level as defined in Article 3(2) of Regulation (EC) No 881/2004/EC ("the rail sector representative bodies"),

   — the European Railway Agency, and

   — the Commission.

4. This Steering Committee shall be co-chaired by (a) the Commission and (b) a person nominated by the rail sector representative bodies. The Commission assisted by the members of the Steering Committee shall draft the rules of procedure of this Steering Committee, on which the Steering Committee shall agree.

5. The members of the Steering Committee may propose to the Steering Committee that other organisations be included as observers where there are sound technical and organisational reasons for doing so.

The Stakeholders

The railway undertakings, infrastructure managers and wagon keepers shall set up an efficient project governance structure which enables the TAF system to be efficient developed and deployed.

Above stakeholders shall:

— provide the necessary efforts and resources needed for the implementation of this Regulation,

— comply with the principles of access to the TAF TSI common components which shall be available to all market participants at a unified, transparent and lowest possible service cost structure,

— ensure that all market participants have access to all data exchanged required for fulfilling their legal obligations and for the performance of their functions in accordance with the TAF TSI functional requirements,

— protect the confidentiality of customer relationships,

— set-up a mechanism which will enable "latecomers" to join the TAF development and to profit from achieved TAF developments related to the common components in a way which is satisfactory both for above stakeholders and for the "newcomers" in particular with a view to fair cost sharing,

— report of progress with implementation plans to the TAF Steering Committee. This reporting includes also — where appropriate — deviations from the master plan.

The Representative Bodies

The Representative Bodies from the railway sector acting on a European level as defined in Article 3(2) of Regulation (EC) No 881/2004/EC shall have the following roles and responsibilities:

— represent their individual stakeholder members at the TAF TSI Steering Committee,

— raise awareness of their members on their obligations related to the implementation of the present Regulation,

— ensure current and complete access for all above stakeholders to status information on the work of the Steering Committee and any other groups in order to safeguard each representative's interests in the implementation of TAF TSI in a timely manner,

— ensure the efficient information flow from their individual stakeholder members to the TAF Steering Committee so that the stakeholders' interest is duly taken into account for decisions affecting the TAF development and deployment,

— ensure the efficient information flow from the TAF Steering Committee to their individual stakeholder members so that the stakeholders are duly informed about decisions affecting the TAF development and deployment.

7.2. **Change management**

7.2.1. *Change management process*

Change management procedures shall be designed to ensure that the costs and benefits of change are properly analysed and that changes are implemented in a controlled way. These procedures shall be defined, put in place, supported and managed by the European Railway Agency and shall include:

— the identification of the technical constraints underpinning the change,

— a statement of who takes responsibility for the change implementation procedures,

— the procedure for validating the changes to be implemented,

— the policy for change management, release, migration and roll-out,

— the definition of the responsibilities for the management of the detailed specifications and for both its quality assurance and configuration management.

The Change Control Board (CCB) shall be composed of the European Railway Agency, rail sector representative bodies and national safety authorities. Such an affiliation of the parties shall ensure a perspective on the changes that are to be made and an overall assessment of their implications. The Commission may add further parties to the CCB if their participation is seen to be necessary. The CCB ultimately shall be brought under the aegis of the European Railway Agency.

7.2.2. *Specific change management process for documents listed in Annex A to this Regulation*

The change control management for the documents listed in Annex A to this Regulation shall be established by the European Railway Agency in accordance with the following criteria:

1. The change requests affecting the documents are submitted either via the National Safety Authorities (NSA), or via the representative bodies from the railway sector acting on a European level as defined in Article 3(2) of Regulation (EC) No 881/2004, or via the TAF TSI Steering Committee. The Commission may add further submitting parties if their contribution is seen to be necessary.

2. The European Railway Agency shall gather and store the change requests.

3. The European Railway Agency shall present change requests to the dedicated ERA working party, which will evaluate them and prepare a proposal accompanied by an economic evaluation, where appropriate.

4. Afterwards the European Railway Agency shall present the change request and the associated proposal to the change control board that will or will not validate or postpone the change request.

5. If the change request is not validated, the European Railway Agency shall send back to the requester either the reason for the rejection or a request for additional information about the draft change request.

6. The document shall be amended on the basis of validated change requests.

7. The European Railway Agency shall submit a recommendation to update Annex A to the Commission together with the draft new version of the document, the change requests and their economic evaluation.

8. The European Railway Agency shall make the draft new version of the document and the validated change requests available on its web site.

9. Once the update of Annex A is published in the *Official Journal of the European Union*, the European Railway Agency shall make the new version of the document available on its web site.

Where change control management affects elements which are in common use within the TAP TSI, the changes shall be made so as to remain as close as possible to the implemented TAP TSI in order to achieve optimum synergies.

ANNEX II

'ANNEX A

LIST OF ACCOMPANYING DOCUMENTS

List of mandatory specifications

Index N	Reference	Document Name	Version
5	ERA_FRS_TAF_A_Index_5.doc	TAF TSI — ANNEX A.5: Figures and Sequence Diagrams of the TAF TSI Messages	1.0

Appendix	Reference	Document Name	Version
A	ERA_FRS_TAF_D_2_Appendix_A.doc	TAF TSI — ANNEX D.2: APPENDIX A (WAGON/ILU TRIP PLANNING)	1.0
B	ERA_FRS_TAF_D_2_Appendix_B.doc	TAF TSI — ANNEX D.2: APPENDIX B — WAGON AND INTERMODAL UNIT OPERATING DATABASE (WIMO)	1.0
B — Annex 1	ERA_FRS_TAF_D_2_Appendix_B_Annex_1.doc	TAF TSI — ANNEX D.2: APPENDIX B — WAGON AND INTERMODAL UNIT OPERATING DATABASE (WIMO) — ANNEX 1: WIMO DATA	1.0
C	ERA_FRS_TAF_D_2_Appendix_C.doc	TAF TSI — ANNEX D.2: APPENDIX C — REFERENCE FILES	1.0
D	ERA_FRS_TAF_D_2_Appendix_D.doc	TAF TSI — ANNEX D.2: APPENDIX D — INFRASTRUCTURE RESTRICTION NOTICE DATA	1.0
E	ERA_FRS_TAF_D_2_Appendix_E.doc	TAF TSI — ANNEX D.2: APPENDIX E — COMMON INTERFACE	1.0
F	ERA_FRS_TAF_D_2_Appendix_F.doc	TAF TSI — ANNEX D.2: APPENDIX F — TAF TSI DATA AND MESSAGE MODEL	1.0'

COMMISSION IMPLEMENTING REGULATION (EU) No 329/2012

of 17 April 2012

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE EUROPEAN COMMISSION,

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

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

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors [2], and in particular Article 136(1) thereof,

Whereas:

(1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round 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 XVI, Part A thereto.

(2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 17 April 2012.

For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and Rural Development

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	MA	45,5
	TN	105,7
	TR	108,2
	ZZ	86,5
0707 00 05	TR	130,0
	ZZ	130,0
0709 93 10	MA	91,2
	TR	149,7
	ZZ	120,5
0805 10 20	EG	54,3
	IL	71,0
	MA	49,9
	TN	54,8
	TR	61,6
	ZA	34,5
	ZZ	54,4
0805 50 10	EG	34,3
	TR	45,5
	ZZ	39,9
0808 10 80	AR	76,6
	BR	84,7
	CA	128,3
	CL	97,3
	CN	107,9
	MK	31,8
	NZ	137,2
	US	167,2
	UY	72,9
	ZA	101,2
	ZZ	100,5
0808 30 90	AR	104,0
	CL	118,2
	CN	88,4
	US	107,0
	ZA	115,5
	ZZ	106,6

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

DECISIONS

COMMISSION IMPLEMENTING DECISION

of 16 April 2012

amending Decision 2009/821/EC as regards the lists of border inspection posts and veterinary units in Traces

(notified under document C(2012) 2377)

(Text with EEA relevance)

(2012/197/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market [1], and in particular Article 20(1) and (3) thereof,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC [2], and in particular the second sentence of the second subparagraph of Article 6(4) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries [3], and in particular Article 6(2) thereof,

Whereas:

(1) Commission Decision 2009/821/EC of 28 September 2009 drawing up a list of approved border inspection posts, laying down certain rules on the inspections carried out by Commission veterinary experts and laying down the veterinary units in Traces [4] lays down a list of border inspection posts approved in accordance with Directives 91/496/EEC and 97/78/EC. That list is set out in Annex I to that Decision.

(2) Note (15) of the special remarks in Annex I to Decision 2009/821/EC refers to the validity of the provisional approval for the border inspection post at the port of Marseille Port until the conclusion of the works to upgrade those facilities to fully comply with the requirements laid down in Union legislation. That provisional approval was valid until 31 July 2011. France has informed the Commission that due to a number of delays the upgrade of the facilities will only be concluded by 1 July 2012. It is therefore appropriate to extend the provisional approval for the border inspection post at the port of Marseille Port until that date. Note (15) of the special remarks in Annex I to Decision 2009/821/EC should therefore be amended accordingly. For the sake of legal certainty, that amendment should apply retroactively.

(3) Following communication from Belgium, the inspection centre 'Kaai 650' in the border inspection post at the port of Antwerp should be deleted from the list of entries for that Member State as set out in Annex I to Decision 2009/821/EC.

(4) The Commission inspection service (Food and Veterinary Office, FVO) carried out an audit in Bulgaria, following which it made a number of recommendations to that Member State. Bulgaria has communicated that the approval of the border inspection post at the road of Kapitan Andreevo should be amended to take account of those recommendations. The entry for that border inspection post should therefore be amended accordingly in the list of entries for that Member State as set out in Annex I to Decision 2009/821/EC.

(5) FVO carried out an audit in Greece, following which it made a number of recommendations to that Member State. Greece has communicated that the approval for the category '*equidae*' at the border inspection post at the road of Peplos should be temporarily suspended to take account of those recommendations. The entry for that border inspection post should therefore be amended accordingly in the list of entries for that Member State as set out in Annex I to Decision 2009/821/EC.

[1] OJ L 224, 18.8.1990, p. 29.
[2] OJ L 268, 24.9.1991, p. 56.
[3] OJ L 24, 30.1.1998, p. 9.
[4] OJ L 296, 12.11.2009, p. 1.

(6) Following communication from Spain, the approval for the categories '*equidae*' and 'ungulates' at the inspection centre 'Flightcare' in the border inspection post at the airport of Madrid should be deleted. The entry for that border inspection post should therefore be amended accordingly in the list of entries for that Member State as set out in Annex I to Decision 2009/821/EC.

(7) Italy has communicated that the border inspection post of the airport of Brescia Montichiari should be deleted from the list of entries for that Member State and that the name of one inspection centre at the border inspection post at the airport of Roma-Fiumicino should be changed. In addition, Italy requested the temporary suspension of six border inspection posts and the temporary suspension of the approval for the categories '*equidae*' and 'ungulates' at the border inspection post of the port at La Spezia. Italy has also requested the temporary suspension of the authorisation for all products of animal origin intended for human consumption, packed, and for products of animal origin not intended for human consumption, packed, frozen and chilled, together with the deletion of the approval for the category 'other animals (including zoo animals)' at the border inspection post of the airport of Milano-Linate. The list of entries for that Member State as set out in Annex I to Decision 2009/821/EC should therefore be amended accordingly.

(8) The Netherlands has communicated that the name of one inspection centre within the border inspection post of Rotterdam has changed. The entry for that border inspection post should therefore be amended accordingly in the list of entries for that Member State as set out in Annex I to Decision 2009/821/EC.

(9) Following communication from Romania, the approval for the category 'live animals' at one inspection centre at the border inspection post of Bucharest Henri Coandă Airport should be temporarily suspended. The entry for that border inspection post should therefore be amended accordingly in the list of entries for that Member State as set out in Annex I to Decision 2009/821/EC.

(10) Annex II to Decision 2009/821/EC lays down the list of central units, regional units and local units in the integrated computerised veterinary system (Traces).

(11) Following communications from Germany, Estonia, Ireland, Hungary and Austria, certain changes should be brought to the list of central, regional and local units in Traces for those Member States, laid down in Annex II to Decision 2009/821/EC.

(12) Decision 2009/821/EC should therefore be amended accordingly.

(13) 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

Annexes I and II to Decision 2009/821/EC are amended in accordance with the Annex to this Decision.

Article 2

The amendment set out in point (1)(a) of the Annex shall apply from 1 August 2011.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 16 April 2012.

For the Commission

John DALLI

Member of the Commission

ANNEX

Annexes I and II to Decision 2009/821/EC are amended as follows:

(1) Annex I is amended as follows:

(a) note (15) of the special remarks is replaced by the following:

'(15) = Това одобрение важи единствено до 1 юли 2012 г. – Toto schválení platí pouze do 1.7.2012. – Denne godkendelse gælder kun indtil den 1. juli 2012. – Diese Genehmigung gilt nur bis zum 1. Juli 2012. – See heakskiit kehtib ainult 1. juulini 2012. – Η έγκριση αυτή ισχύει μόνο μέχρι την 1η Ιουλίου 2012. – This approval is valid only until 1.7.2012. – Esta autorización únicamente es válida hasta el 1/7/2012. – Cette autorisation n'est valable que jusqu'au 1er juillet 2012. – La presente autorizzazione è valida soltanto fino al 1.7.2012. – Šis apstiprinājums ir spēkā tikai līdz 2012. gada 1. jūlijam. – Šis patvirtinimas galioja tik iki 2012 m. liepos 1 d. – A jóváhagyás 2012. július 1-ig érvényes. – Din l-approvazzjoni hija valida biss sal-1/7/2012. – Deze goedkeuring is slechts geldig tot en met 1 juli 2012. – Niniejsze zatwierdzenie jest ważne do 1/7/2012. – Esta aprovação só é válida até 1 de julho de 2012. – Această aprobare este valabilă numai până la 1 iulie 2012. – Ta odobritev velja samo do 1. julija 2012. – Toto schválenie je platné len do 1. júla 2012. – Tämä hyväksyntä on voimassa ainoastaan 1.7.2012 saakka. – Detta godkännande är bara giltigt till den 1 juli 2012.'

(b) in the part concerning Belgium, the entry for the port of Antwerp is replaced by the following:

'Antwerpen Anvers	BE ANR 1	P	GIP LO	HC(2), NHC	
			Afrulog	HC(2), NHC'	

(c) in the part concerning Bulgaria, the entry for Kapitan Andreevo road is replaced by the following:

'Kapitan Andreevo	BG KAN 3	R		HC(2), NHC-NT	U, E, O'

(d) in the part concerning Greece, the entry for Peplos road is replaced by the following:

'Peplos	GR PEP 3	R		HC(2), NHC-NT	E(*)'

(e) in the part concerning Spain, the entry for the airport of Madrid is replaced by the following:

'Madrid	ES MAD 4	A	Iberia	HC(2), NHC(2)	U, E, O
			Flightcare	HC(2), NHC-T(CH)(2), NHC-NT(2)	O
			PER4	HC-T(CH)(2)	
			WFS: World Wide Flight Services	HC(2), NHC-T(CH)(2), NHC-NT	O'

(f) the part concerning Italy is amended as follows:

(i) the entry for the airport of Ancona is replaced by the following:

'Ancona(*)	IT AOI 4	A		HC(*), NHC(*)'	

(ii) the entry for the airport of Brescia Montichiari is deleted;

(iii) the entry for the port of Brindisi is replaced by the following:

'Brindisi(*)	IT BDS 1	P		HC(*)'	

(iv) the entry for the airport of Genova is replaced by the following:

'Genova(*)	IT GOA 4	A		HC(2)(*), NHC(2)(*)	O(*)'

(v) the entry for the port of La Spezia is replaced by the following:

'La Spezia	IT SPE 1	P		HC, NHC	U(*), E(*)'

(vi) the entry for the airport of Milano-Linate is replaced by the following:

'Milano-Linate	IT LIN 4	A		HC(2)(*), NHC-T(2)(*), NHC-NT'	

(vii) the entry for the airport of Napoli is replaced by the following:

'Napoli(*)	IT NAP 4	A		HC(*),NHC-NT(*)'	

(viii) the entry for the airport of Rome-Fiumicino is replaced by the following:

'Roma-Fiumicino	IT FCO 4	A	Nuova Alitalia	HC(2), NHC-NT(2)	O(14)
			FLE	HC, NHC	
			Isola Veterinaria ADR		U, E, O'

(ix) the entry for the airport of Torino-Caselle is replaced by the following:

'Torino-Caselle(*)	IT CTI 4	A		HC(2)(*), NHC-NT(2)(*)'	

(x) the entry for the airport of Verona is replaced by the following:

'Verona(*)	IT VRN 4	A		HC(2)(*), NHC(2)(*)'	

(g) in the part concerning the Netherlands, the entry for the port of Rotterdam is replaced by the following:

'Rotterdam	NL RTM 1	P	Eurofrigo Karimat-astraat	HC, NHC-T(FR), NHC-NT	
			Eurofrigo, Abel Tasmanstraat	HC	
			Frigocare Rotterdam B.V.	HC-T(2)	
			Coldstore Wibaco B.V.	HC-T(FR)(2), HC-NT(2)'	

(h) in the part concerning Romania, the entry for the airport of Bucharest Henri Coandă is replaced by the following:

'Bucharest Henri Coandă	RO OTP 4	A	IC 1	HC-NT(2), HC-T(CH)(2), NHC-NT(2)	
			IC 2(*)		E(*), O(*)'

(2) Annex II is amended as follows:

(a) the part concerning Germany is amended as follows:

(i) the entries for the local units 'DE03013 BAD DOBERAN' and 'DE09413 DEMMIN' are replaced by the following:

'DE17413	ROSTOCK
DE29213	MECKLENBURGISCHE SEENPLATTE'

(ii) the entry for the local unit 'DE25713 LUDWIGSLUST' is replaced by the following:

'DE33113	LUDWIGSLUST-PARCHIM'

(iii) the entry for the local unit 'DE16913 NORDVORPOMMERN' is replaced by the following:

'DE42513	VORPOMMERN-RÜGEN'

(iv) the entry for the local unit 'DE01513 OSTVORPOMMERN UND HANSESTADT GREIFSWALD' is replaced by the following:

'DE01513	VORPOMMERN-GREIFSWALD'

(v) the following entries for the regional unit 'DE00013 MECKLENBURG-VORPOMMERN' are deleted:

'DE17413	GÜSTROW'
'DE30213	MECKLENBURG STRELITZ'
'DE44913	MÜRITZ'
'DE29213	NEUBRANDENBURG STADT'
'DE33113	PARCHIM'
'DE04913	RÜGEN'
'DE42513	STRALSUND HANSESTADT'
'DE33213	UECKER-RANDOW'

(vi) the entry for the local unit 'DE40903 SOLTAU-FALLINGBOSTEL, LANDKREIS' is replaced by the following:

'DE40903	HEIDEKREIS, LANDKREIS'

(vii) the entries for the regional unit 'DE00014 SACHSEN' are replaced by the following:

'DE02514	ERZGEBIRGSKREIS
DE04414	BAUTZEN, LANDKREIS
DE07814	CHEMNITZ STADT
DE15814	ZWICKAU, LANDKREIS
DE09214	NORDSACHSEN, LANDKREIS
DE10514	DRESDEN LANDESHAUPTSTADT
DE24314	LEIPZIG STADT
DE24414	LEIPZIG LANDKREIS
DE48414	GÖRLITZ, LANDKREIS
DE27414	MEISSEN, LANDKREIS
DE17714	MITTELSACHSEN, LANDKREIS
DE02614	VOGTLANDKREIS
DE10014	SÄCHSISCHE SCHWEIZ-OSTERZGEBIRGE, LANDKREIS'

(b) in the part concerning Estonia, the entry for the local unit 'EE00300 EDISE' is replaced by the following:

'EE00300	IDA-VIRUMAA'.

(c) in the part concerning Ireland, all local units are replaced by the following:

'IE00200	CAVAN TOWN
IE00400	CORK CITY
IE10400	CLONAKILTY
IE00500	RAPHOE

IE00700	GALWAY CITY
IE00800	TRALEE
IE00900	NAAS
IE11200	DRUMSHANBO
IE01300	LIMERICK CITY
IE01600	CASTLEBAR
IE01700	NAVAN
IE01900	TULLAMORE
IE02000	ROSCOMMON TOWN
IE12100	TIPPERARY TOWN
IE02300	WATERFORD CITY
IE02500	ENNISCORTHY
IE10900	ROSSLARE'

(d) the part concerning Hungary is amended as follows:

(i) the entry for the central unit 'HU00000 MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT ANIMAL HEALTH AND FOOD CONTROL DEPARTMENT' is replaced by the following:

'HU00000	MINISTRY OF RURAL DEVELOPMENT'

(ii) the entry for the local unit 'HU00100 BUDAPEST' is replaced by the following:

'HU00100	PEST'

(iii) the entry for the following local unit is deleted:

'HU01400	GÖDÖLLŐ'

(e) the part concerning Austria is amended as follows:

(i) the entry for the local unit 'AT00609 JUDENBURG' is replaced by the following:

'AT00609	MURTAL'

(ii) the entry for the following local unit is deleted:

'AT00610	KNITTELFELD'

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2012 OF THE EU-TUNISIA ASSOCIATION COUNCIL

of 20 February 2012

amending Article 15(7) of Protocol 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, concerning the definition of the concept of 'originating products' and methods of administrative cooperation

(2012/198/EU)

THE ASSOCIATION COUNCIL,

Having regard to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, and in particular Article 39 of Protocol 4 thereto,

Whereas:

(1) Article 15(7) of Protocol 4 [1] to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part [2] (hereafter referred to as 'the Agreement'), allows drawback of, or exemption from, customs duties or charges having an equivalent effect, subject to certain conditions, until 31 December 2009.

(2) To provide clarity, long-term economic predictability and legal certainty for economic operators, the Parties to the Agreement have agreed to extend the application period of Article 15(7) of Protocol 4 to the Agreement by three years, with effect from 1 January 2010.

(3) Moreover, the rates of customs charges currently applicable in Tunisia should be adjusted to bring them into line with those that apply in the European Union.

(4) Protocol 4 to the Agreement should therefore be amended accordingly.

(5) Since Article 15(7) of Protocol 4 to the Agreement no longer applies as of 31 December 2009, this Decision should apply from 1 January 2010,

HAS ADOPTED THIS DECISION:

Article 1

Article 15(7) of Protocol No 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, concerning the definition of the concept of 'originating products' and methods of administrative cooperation, is replaced by the following:

'7. Notwithstanding paragraph 1, Tunisia may, except for products falling within Chapters 1 to 24 of the Harmonised System, apply arrangements for drawback of, or exemption from, customs duties or charges having an equivalent effect, applicable to non-originating materials used in the manufacture of originating products, subject to the following provisions:

(a) a 4 % rate of customs charge shall be retained in respect of products falling within Chapters 25 to 49 and 64 to 97 of the Harmonised System, or such lower rate as is in force in Tunisia;

(b) an 8 % rate of customs charge shall be retained in respect of products falling within Chapters 50 to 63 of the Harmonised System, or such lower rate as is in force in Tunisia.

This paragraph shall apply until 31 December 2012 and may be reviewed by common accord.'.

Article 2

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

It shall apply from 1 January 2010.

Done at Brussels, 20 February 2012.

For the EU-Tunisia Association Council
The President
C. ASHTON

[1] OJ L 260, 21.9.2006, p. 3.
[2] OJ L 97, 30.3.1998, p. 2.

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