COMMISSION IMPLEMENTING REGULATION (EU) 2017/423

of 9 March 2017

re-imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and Vietnam and produced by Fujian Viscap Shoes Co. Ltd, Vietnam Ching Luh Shoes Co. Ltd, Vinh Thong Producing-Trading-Service Co. Ltd, Qingdao Tae Kwang Shoes Co. Ltd, Maystar Footwear Co. Ltd, Lien Phat Company Ltd, Qingdao Sewon Shoes Co. Ltd, Panyu Pegasus Footwear Co. Ltd, PanYu Leader Footwear Corporation, Panyu Hsieh Da Rubber Co. Ltd, An Loc Joint Stock Company, Qingdao Changshin Shoes Company Limited, Chang Shin Vietnam Co. Ltd, Samyang Vietnam Co. Ltd, Qingdao Samho Shoes Co. Ltd, Min Yuan, Chau Giang Company Limited, Foshan Shunde Fong Ben Footwear Industrial Co. Ltd and Dongguan Texas Shoes Limited Co. implementing the judgment of the Court of Justice in Joined Cases C-659/13 and C-34/14

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union ('TFEU'), and in particular to Article 266 thereof,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union [1] ('the basic Regulation'), and in particular Article 9(4) and 14(1) and (3) thereof,

Whereas:

A. **PROCEDURE**

(1) On 23 March 2006, the Commission adopted Regulation (EC) No 553/2006 [2] imposing provisional anti-dumping measures on imports of certain footwear with uppers of leather ('footwear') originating in the People's Republic of China ('PRC' or 'China') and Vietnam ('the provisional Regulation').

(2) By Regulation (EC) No 1472/2006 [3] the Council imposed definitive anti-dumping duties ranging from 9,7 % to 16,5 % on imports of certain footwear with uppers of leather, originating in Vietnam and in the PRC for two years ('Regulation (EC) No 1472/2006' or 'the contested Regulation').

(3) By Regulation (EC) No 388/2008 [4] the Council extended the definitive anti-dumping measures on imports of certain footwear with uppers of leather originating in the PRC to imports consigned from the Macao Special Administrative Region ('SAR'), whether declared as originating in the Macao SAR or not.

(4) Further to an expiry review initiated on 3 October 2008 [5], the Council further extended the anti-dumping measures for 15 months by Implementing Regulation (EU) No 1294/2009 [6], i.e. until 31 March 2011, when the measures expired ('Implementing Regulation (EU) No 1294/2009').

(5) Brosmann Footwear (HK) Ltd, Seasonable Footwear (Zhongshan) Ltd, Lung Pao Footwear (Guangzhou) Ltd and Risen Footwear (HK) Co Ltd as well as Zhejiang Aokang Shoes Co. Ltd ('the applicants') challenged the contested Regulation in the Court of First Instance (now: the General Court). By judgments of 4 March 2010 in Case T-401/06 Brosmann Footwear (HK) and Others v Council and of 4 March 2010 in Joined Cases T-407/06 and T-408/06 Zhejiang Aokang Shoes and Wenzhou Taima Shoes v Council the General Court rejected those challenges.

(6) The applicants appealed those judgments. In its judgments of 2 February 2012 in case C-249/10 P Brosmann Footwear (HK) and Others v Council and of 15 November 2012 in case C-247/10P Zhejiang Aokang Shoes v Council ('the Brosmann and Aokang judgments'), the Court of Justice set aside those judgments. It held that the General Court erred in law in so far as it held that the Commission was not required to examine requests for market economy treatment ('MET') under Article 2(7)(b) and (c) of the basic Regulation from non-sampled traders (paragraph 36 of the judgment in Case C-249/10 P and paragraph 29 and 32 of the judgment in Case C-247/10 P).

(7) The Court of Justice then gave judgment itself in the matter. It held that *'the Commission ought to have examined the substantiated claims submitted to it by the appellants pursuant to Article 2(7)(b) and (c) of the basic regulation for the purpose of claiming MET in the context of the anti-dumping proceeding [which is] the subject of the contested regulation. It must next be found that it cannot be ruled out that such an examination would have led to a definitive anti-dumping duty being imposed on the appellants other than the 16,5 % duty applicable to them pursuant to Article 1(3) of the contested regulation. It is apparent from that provision that a definitive anti-dumping duty of 9,7 % was imposed on the only Chinese trader in the sample which obtained MET. As is apparent from paragraph 38 above, had the Commission found that the market economy conditions prevailed also for the appellants, they ought, when the calculation of an individual dumping margin was not possible, also to have benefited from the same rate'* (paragraph 42 of the judgment in Case C-249/10 P and paragraph 36 of the judgment in Case C-247/10 P).

(8) As a consequence, it annulled the contested Regulation, in so far as it relates to the applicants concerned.

(9) In October 2013, the Commission, by means of a notice published in the *Official Journal of the European Union* ([7]), announced that it had decided to resume the anti-dumping proceeding at the very point at which the illegality occurred and to examine whether market economy conditions prevailed for the applicants for the period from 1 April 2004 to 31 March 2005. That notice invited interested parties to come forward and make themselves known.

(10) In March 2014, the Council, by Implementing Decision 2014/149/EU ([8]), rejected a Commission proposal to adopt a Council Implementing Regulation re-imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on certain footwear with uppers of leather originating in the People's Republic of China and produced by Brosmann Footwear (HK) Ltd, Seasonable Footwear (Zhongshan) Ltd, Lung Pao Footwear (Guangzhou) Ltd, Risen Footwear (HK) Co Ltd and Zhejiang Aokang Shoes Co. Ltd and terminated the proceedings with regard to these producers. The Council took the view that importers having bought shoes from those exporting producers, to whom the relevant customs duties had been reimbursed by the competent national authorities on the basis of Article 236 of Council Regulation (EEC) No 2913/1992 ([9]) ('the Community Customs Code'), had acquired legitimate expectations on the basis of Article 1(4) of the contested Regulation, which had rendered the provisions of the Community Customs Code, and in particular its Article 221, applicable to the collection of the duties.

(11) Three importers of the product concerned, C & J Clark International Ltd ('Clark'), Puma SE ('Puma') and Timberland Europe BV ('Timberland') ('the importers concerned') challenged the anti-dumping measures on imports of certain footwear from China and Vietnam invoking the jurisprudence mentioned in recitals (5) to (7) before their national Courts, which referred the matters to the Court of Justice for a preliminary ruling.

(12) On 4 February 2016, in the Joined Cases C-659/13 C & J Clark International Limited and C-34/14 Puma SE ([10]), the Court of Justice declared Regulation (EC) No 1472/2006 and Implementing Regulation (EU) No 1294/2009 invalid in so far as the European Commission did not examine the MET and individual treatment ('IT') claims submitted by exporting producers in the PRC and Vietnam that were not sampled ('the judgments'), contrary to the requirements laid down in Articles 2(7)(b) and 9(5) of Council Regulation (EC) No 384/96 ([11]).

(13) Regarding Case C-571/14 Timberland Europe, the Court of Justice decided on 11 April 2016 to remove the case from the register at the request of the referring national court.

(14) Article 266 TFEU provides that the institutions must take the necessary measures to comply with the Court's judgments. In case of annulment of an act adopted by the institutions in the context of an administrative procedure, such as anti-dumping, compliance with the Court's judgment consists in the replacement of the annulled act by a new act, in which the illegality identified by the Court is eliminated. ([12])

(15) According to the case-law of the Court, the procedure for replacing the annulled act may be resumed at the very point at which the illegality occurred. ([13]) That implies in particular that in a situation where an act concluding an administrative procedure is annulled, that annulment does not necessarily affect the preparatory acts, such as the initiation of the anti-dumping procedure. In a situation where a regulation imposing definitive anti-dumping measures is annulled, that means that, subsequent to the annulment, the anti-dumping proceeding is still open, because the act concluding the anti-dumping proceeding has disappeared from the Union legal order ([14]), except if the illegality occurred at the stage of initiation.

(16) Apart from the fact that the institutions did not examine the MET and IT claims submitted by exporting producers in the PRC and Vietnam that were not sampled, all other findings made in Regulation (EC) No 1472/2006 and Implementing Regulation (EU) No 1294/2009 remain valid.

(17) In the present case, the illegality occurred after initiation. Hence, the Commission decided to resume the present anti-dumping proceeding that was still open following the judgments at the very point at which the illegality occurred and to examine whether market economy conditions prevailed for the exporting producers concerned for the period from 1 April 2004 to 31 March 2005, which was the investigation period ('investigation period'). The Commission also examined, where appropriate, whether the exporting producers concerned qualified for IT in accordance with 9(5) of Council Regulation (EC) No 1225/2009 ([15]) (the 'basic Regulation prior to its amendment') ([16]).

(18) By Commission Implementing Regulation (EU) 2016/1395 ([17]), the Commission re-imposed a definitive anti-dumping duty and collected definitely the provisional duty imposed on imports of Clark and Puma of certain footwear with uppers of leather originating in the PRC and produced by 13 Chinese exporting producers that have submitted MET and IT claims but that had not been sampled.

(19) By Commission Implementing Regulation (EU) 2016/1647 ([18]), the Commission re-imposed a definitive anti-dumping duty and collected definitely the provisional duty imposed on imports of Clark, Puma and Timberland of certain footwear with uppers of leather originating in Vietnam and produced by certain Vietnamese exporting producers that had submitted MET and IT claims, but had not been sampled.

(20) By Commission Implementing Regulation (EU) 2016/1731 ([19]) the Commission re-imposed a definitive anti-dumping duty and collected definitely the provisional duty imposed on imports of Puma and Timberland of certain footwear with uppers of leather originating in the People's Republic of China and produced by General Footwear Ltd and certain footwear with uppers of leather originating in Vietnam and produced by Diamond Vietnam Co. Ltd and Ty Hung Footgearmex/Footwear Co. Ltd ('Ty Hung Co. Ltd') that submitted MET and IT claims, but had not been sampled.

(21) The validity of Implementing Regulations (EU) 2016/1395, (EU) 2016/1647 and (EU) 2016/1731 has been challenged by Puma and Timberland at the General Court in Cases T-781/16 Puma and Others v Commission and T-782/16 Timberland Europe v Commission. Furthermore, the validity of Implementing Regulation (EU) 2016/1395 has also been challenged at the General Court by Clark in Cases T-790/16 C & J Clark International v Commission and T-861/16 C & J Clark International v Commission.

(22) In view of the implementation of the judgment in Joined Cases C-659/13 C & J Clark International Limited and C-34/14 Puma SE mentioned above in recital (12), the Commission adopted Implementing Regulation (EU) 2016/223 ([20]). In Article 1 of that regulation, the Commission instructed national customs authorities to forward all requests for reimbursement of the definitive anti-dumping duties paid on imports of footwear originating in China and Vietnam made by importers based on Article 236 of the Community Customs Code and based on the fact that a non-sampled exporting producer had requested MET or IT in the investigation that lead to the imposition of the definitive measures by Regulation (EC) No 1472/2006 ('original investigation'). The Commission shall assess the relevant MET or IT claim and re-impose the appropriate duty rate. On this basis the national customs authorities should subsequently decide on the request for repayment and remission of the anti-dumping duties.

(23) The validity of Implementing Regulation (EU) 2016/223 is subject to a preliminary ruling request lodged by the Finanzgericht Düsseldorf on 9 May 2016 (Case C-256/16 Deichmann). The above request for a preliminary ruling was made in the context of a dispute between Deichmann, a German importer of footwear and the relevant national customs authority, the Hauptzollamt Duisburg. The dispute concerns the reimbursement of anti-dumping duties paid by Deichmann on imports of footwear from, inter alia, its Chinese supplier Chengdu Sunshine Shoes Co. Ltd which lodged an MET and IT claim and was not sampled. A second preliminary ruling request on the validity of Implementing Regulation (EU) 2016/223 was lodged by the UK First-tier Tribunal (Tax Chamber) on 28 November 2016 (Case C-612/16 C & J Clark International).

(24) Furthermore, following a notification from the French customs authorities in accordance with Article 1 of Implementing Regulation (EU) 2016/223, the Commission analysed MET/IT claims from three Chinese exporting producers, Chengdu Sunshine Shoes Co. Ltd, Foshan Nanhai Shyang Yuu Footwear Ltd and Fujian Sunshine Footwear Co. Ltd

(25) As a result of the above, by Implementing Regulation (EU) 2016/2257 ([21]), the Commission re-imposed a definitive anti-dumping duty and collected definitely the provisional duty imposed on imports certain footwear with uppers of leather originating in the People's Republic of China and produced by three exporting producers that had submitted MET and IT claims but that had not been sampled.

(26) On 12 July 2016, in accordance with Article 1 of Implementing Regulation (EU) 2016/223, the customs authorities of the United Kingdom notified the Commission reimbursement claims of importers in the Union and provided supporting documents.

(27) On 13 July 2016, in accordance with Article 1 of Implementing Regulation (EU) 2016/223, the customs authorities of Belgium notified the Commission reimbursement claims of importers in the Union and provided supporting documents.

(28) On 26 July 2016, in accordance with Article 1 of Implementing Regulation (EU) 2016/223, the customs authorities of Sweden notified the Commission reimbursement claims of importers in the Union and provided supporting documents.

(29) These notifications, which are the subject of this Regulation, listed a total of 246 companies as suppliers of footwear from China and Vietnam.

(30) For a large number of these companies, 168 (listed in Annex III of this Regulation) the Commission has no record that these companies had submitted any MET or IT claim form in the original investigation. Amongst these companies there were also companies that are not concerned by the investigation as they were, for instance, not located in China or Vietnam or they were trading or mere processing companies in any event not entitled to any individual dumping margin. The companies listed in Annex III were also not able to demonstrate that they were related to any of the Chinese or Vietnamese exporting producers that had provided a MET/IT claim in the original investigation. However, as mentioned in recital (79) below, the Commission recognises that not all importers that bought footwear from those traders may have been aware of the need to inform the Commission of the names of the exporting producers from which said traders acquired their footwear. Recital (79) also explains in more detail why the Commission, on that basis, has decided to temporarily suspend the examination of the companies listed in Annex III.

(31) Out of the remaining companies, 20 were already assessed individually or as part of a company group selected in the sample of Chinese or Vietnamese exporting producers in the context of the original investigation (listed in Annex IV of this Regulation). As none of these companies received an individual duty rate, the duty for China of 16,5 %, or of 10 % for Vietnam, is applied to imports of footwear from these companies respectively. These rates were not affected by the judgment mentioned in recital (12).

(32) Out of the remaining companies, 31 (listed in Annex V of this Regulation) were already assessed either individually or as part of a company group in the context of the implementation of the judgment mentioned in recital (12); namely in Implementing Decision 2014/149/EU or in Implementing Regulations (EU) 2016/1395, (EU) 2016/1647, (EU) 2016/1731 and (EU) 2016/2257 respectively. These assessments included also eight companies that were notified to the Commission and were identified following disclosure through comments received from Federation of the European Sporting Goods Industry ('FESI') and the Footwear Coalition as being related to one of the company or company groups already assessed previously in one of the before-mentioned regulations.

(33) Companies or company groups assessed by Implementing Decision 2014/149/EU were not made subject to any re-imposition of an anti-dumping duty, as mentioned in recital (10), on the basis that the reimbursement of duties to these companies had already taken place and thus provided legitimate expectations to them that no such re-imposition would occur. The reimbursement claims of importers in the Union relating to companies or company groups assessed by Implementing Regulations (EU) 2016/1395, (EU) 2016/1647, (EU) 2016/1731 and (EU) 2016/2257 respectively, should, on the other hand, not be granted. This is because these importers find themselves in a different legal situation than those assessed by Implementing Decision 2014/149/EU, having notably not gained legitimate expectations.

(34) Following disclosure, through comments provided by FESI and the Footwear Coalition, one Chinese exporting producer that was notified to the Commission, was identified as a company having submitted a MET/IT claim form during the original investigation but that was not sampled, nor assessed in previous implementation exercises mentioned in recitals (18) to (20) and (25). The same parties also identified four other companies notified to the Commission that were related to Chinese or Vietnamese exporting producers that had submitted a MET/IT claim form during the original investigation, but were not sampled and that had also not been assessed in previous implementation exercises mentioned in recitals (18) to (20) and (25). In total there are thus five companies (listed in Annex VI) whose MET/IT claim, or that of their related companies, should be assessed. These assessments cannot be finalised within the time frame of the current implementation exercise and will therefore be subject to a subsequent implementation exercise. The reimbursement claims of importers in the Union of these companies (listed in Annex VI) should therefore be temporarily suspended pending the outcome of the assessment of the MET/IT claims of the relevant suppliers in China and/or Vietnam.

(35) Finally, following disclosure, the same parties claimed that six companies listed in Annex III were related to a company or company group already assessed in previous implementation exercises and should be identified as such. However, the evidence in the file did not confirm this claim, which was, in any case, also not substantiated by any further evidence. This claim is therefore rejected.

(36) The remaining 19 companies were Chinese or Vietnamese exporting producers that were not sampled in the original investigation and that had submitted an MET/IT claim form. The Commission therefore assessed the MET and IT claims provided by these companies. This assessment included also two companies that were notified to the Commission and were identified following disclosure through comments received from FESI and the Footwear Coalition as being related to one Chinese exporting producer subject to the current assessment.

(37) In summary, in this Regulation, the Commission assessed the MET/IT claim forms of: Fujian Viscap Shoes Co. Ltd, Vietnam Ching Luh Shoes Co. Ltd, Vinh Thong Producing-Trading-Service Co. Ltd, Qingdao Tae Kwang Shoes Co. Ltd, Maystar Footwear Co. Ltd, Lien Phat Company Ltd, Qingdao Sewon Shoes Co. Ltd, Panyu Pegasus Footwear Co. Ltd, PanYu Leader Footwear Corporation, Panyu Hsieh Da Rubber Co. Ltd, An Loc Joint Stock Company, Qingdao Changshin Shoes Company Limited, Chang Shin Vietnam Co. Ltd, Samyang Vietnam Co. Ltd, Qingdao Samho Shoes Co. Ltd, Min Yuan, Chau Giang Company Limited, Foshan Shunde Fong Ben Footwear Industrial Co. Ltd and Dongguan Texas Shoes Limited Co.

B. IMPLEMENTATION OF THE JUDGMENT OF THE COURT OF JUSTICE IN JOINED CASES C-659/13 AND C-34/14 FOR IMPORTS FROM CHINA

(38) The Commission has the possibility to remedy the aspects of the contested Regulation which led to its annulment, while leaving unchanged the parts of the assessment which are not affected by the judgment ([22]).

(39) This Regulation seeks to correct the aspects of the contested Regulation found to be inconsistent with the basic Regulation, and which thus led to the declaration of invalidity in so far as the exporting producers mentioned in recital (37) are concerned.

(40) All other findings made in the contested Regulation and in Implementing Regulation (EU) No 1294/2009, which were not declared invalid by the Court, remain valid and are herewith incorporated into this Regulation.

(41) Therefore, the following recitals are limited to the new assessment necessary in order to comply with the judgments of the Court.

(42) The Commission has examined whether MET or IT prevailed for the exporting producers mentioned in recital (37) ('exporting producers concerned') which submitted MET/IT requests for the investigation period. The purpose of this determination is to ascertain the extent to which the importers concerned are entitled to receive a repayment of the anti-dumping duty paid with regard to anti-dumping duties paid on exports of these suppliers.

(43) Should the analysis reveal that MET was to be granted to the exporting producers concerned whose exports were subject to the anti-dumping duty paid by the importers concerned, an individual duty rate would have to be attributed to that exporting producer and the repayment of the duty would be limited to an amount corresponding to a difference between the duty paid and the individual duty rate, i.e. in case of import from

China, the difference between 16,5 %, and the duty imposed on the only exporting company in the sample that obtained MET, namely 9,7 %; and, in case of imports from Vietnam, the difference between 10 % and the individual duty rate calculated for the exporting producer concerned, if any.

(44) Should the analysis reveal that IT was to be granted to an exporting producer for which MET was rejected, an individual duty rate would have to be attributed to the exporting producer concerned and the repayment of the duty would be limited to an amount corresponding to a difference between the duty paid, i.e. in case of imports from China 16,5 % and in case of imports from Vietnam 10 %, and the individual duty calculated for the exporting producer concerned, if any.

(45) Conversely, should the analysis of such MET and IT claims reveal that both MET and IT should be rejected, no repayment of anti-dumping duties can be awarded.

(46) As explained in recital (12), the Court of Justice annulled the contested Regulation and Implementing Regulation (EU) No 1294/2009 with regard to exports of certain footwear from certain Chinese and Vietnamese exporting producers, in so far as the Commission did not examine the MET and IT claims submitted by these exporting producers.

(47) The Commission has therefore examined the MET and IT claims of the exporting producers concerned in order to determine the duty rate applicable to their exports. That assessment showed that the information provided did not demonstrate that the exporting producers concerned operated under market economy conditions or that they qualified for individual treatment (see for a detailed explanation below recitals (48) and following).

1. **Assessment of the MET claims**

(48) It is necessary to point out that the burden of proof lies with the producer wishing to claim MET under Article 2(7)(b) of the basic Regulation. To that end, the first subparagraph of Article 2(7)(c) provides that the claim submitted by such a producer must contain sufficient evidence, as laid down in that provision, that the producer operates under market economy conditions. Accordingly, there is no obligation on the Union institutions to prove that the producer does not satisfy the conditions laid down for the recognition of such status. On the contrary, it is for the Union institutions to assess whether the evidence supplied by the producer concerned is sufficient to show that the criteria laid down in the first subparagraph of Article 2(7)(c) of the basic Regulation are fulfilled in order to grant it MET and it is for the Union judicature to examine whether that assessment is vitiated by a manifest error (paragraph 32 of the judgment in Case C-249/10 P and paragraph 24 of the judgment in Case C-247/10 P).

(49) In accordance with Article 2(7)(c) of the basic Regulation, all five criteria listed in this article should be met so that an exporting producer can be granted MET. Therefore, the Commission considered that the failure to meet at least one criterion was enough to reject the MET request.

(50) None of the exporting producers concerned was able to demonstrate that they met criterion 1 (Business decisions). More specifically, the Commission found that most of the exporting producers concerned (Companies 7, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25) ([23]) could not determine freely their sales quantities for domestic and export markets. In this respect, the Commission established that there were limitations in the output and/or a limitation to sales quantities on specific markets (domestic and export). Moreover, some of the exporting producers concerned (Companies 8, 9, 10, 15) failed to provide essential and complete information (e.g. evidence concerning the structure and the capital of the company, evidence or explanations concerning the company's decision making) to demonstrate that their business decisions were taken in accordance with market signals without significant State interference.

(51) With regard to criterion 2 (Accounting), Companies 8, 10, 13, 14, 15, 16, 17, 19, 20, 21, 24 and 25 in addition failed to demonstrate that they had a set of basic accounting records independently audited in line with international accounting standards. In particular, the MET assessments revealed that these companies either failed to provide the Commission with an independent auditor opinion/report, or their accounts were not audited, or lacked explicative notes on several items of the balance sheet and income statement.

(52) Regarding criterion 3 (Assets and 'carry-over'), Companies 7, 8, 9, 10, 11, 13, 15, 16, 17, 18, 19, 22, 23 and 25 failed to demonstrate that no distortions are carried over from the non-market economy system. In particular, these companies failed to provide essential and complete information, inter alia, about the assets owned by the company, and the terms and the value of the land use-rights.

(53) Lastly, and considering the reasons set out in recital (49), the Commission did not assess criteria 4 (Bankruptcy and property laws) and 5 (Exchange rate conversions) for any of the exporting producers concerned. The Commission informed the exporting producers concerned of the MET findings and invited them to provide comments. No comments were received.

2. **Assessment of the IT claims**

(54) Pursuant to Article 9(5) of the basic Regulation prior to its amendment, where Article 2(7)(a) of the same regulation applies, an individual duty shall however be specified for the exporters which can demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation prior to its amendment.

(55) As mentioned in recital (48) it is necessary to point out that the burden of proof lies with the producer wishing to claim IT under Article 9(5) of the basic Regulation prior to its amendment. To that end, the first subparagraph of Article 9(5) provides that the claim submitted must be properly substantiated. Accordingly, there is no obligation on the Union institutions to prove that the exporter does not satisfy the conditions laid down for the recognition of such status. On the contrary, it is for the Union institutions to assess whether the evidence supplied by the exporter concerned is sufficient to show that the criteria laid down in Article 9(5) of the basic Regulation prior to its amendment are fulfilled in order to grant IT.

(56) In accordance with Article 9(5) of the basic Regulation prior to its amendment, exporters should demonstrate on the basis of a properly substantiated claim that all five criteria listed therein are met so that they can be granted IT. Therefore, the Commission considered that the failure to meet at least one criterion was enough to reject the IT claim.

(57) The five criteria are the following:

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

(2) export prices and quantities, and conditions and terms of sale are freely determined;

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

(4) exchange rate conversions are carried out at the market rate; and

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

(58) All 19 exporting producers concerned that requested MET claimed also IT in the event that they would not be granted MET. The Commission therefore assessed the IT claims of each exporting producer concerned.

(59) Regarding criterion 1 (Repatriation of capital and profits), Companies 9 and 20 failed to provide evidence showing that they were free to repatriate capital and profits and did thus not demonstrate that this criterion was fulfilled.

(60) With regard to criterion 2 (Export sales and prices freely determined), the Commission concluded that Companies 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23 and 24, had failed to prove that business decisions such as export prices and quantities, and conditions and terms of sale were freely determined in response to market signals, as the evidence analysed, such as articles of association or business licences, showed a limitation in output and/or on the sales quantities of footwear in specific markets.

(61) As regards criterion 3 (Company — key management and shares — is sufficiently independent from State interference), Companies 7, 8, 9, 10, 13, 15, 16, 17, 18, 19, 22, 23 and 25 failed to provide the necessary information to demonstrate that they were sufficiently independent from State interference. inter alia, no information was provided on how the land use right were transferred to these companies and at what terms and conditions.

(62) In addition, companies 8, 10, 17, 18 and 25 also failed to prove that they fulfilled the requirements of criterion 5 (Circumvention) on the basis that no information was provided as to how decisions were taken within the company.

(63) Lastly, considering the provisions referred to in recital (56) the Commission did not assess criterion 4 (exchange rate conversions are carried out at the market rate) for any of the exporting producers concerned.

(64) None of the 19 exporting producers concerned fulfilled the conditions set out in Article 9(5) of the basic Regulation prior to its amendment and IT was therefore denied to all of them. The Commission informed the exporting producers concerned accordingly and invited them to provide comments. No comments were received.

(65) The residual anti-dumping duty applicable to China and Vietnam, of 16,5 % and 10 % respectively, should therefore be imposed for exports made by the 19 exporting producers concerned for the period of application of Regulation (EC) No 1472/2006. The period of application of that regulation was initially from 7 October 2006 until 7 October 2008. Following the initiation of an expiry review, it was prolonged on 30 December 2009 until 31 March 2011. The illegality identified in the judgments is that the Union institutions failed to establish whether the products produced by the exporting producers concerned should be subject to the residual duty or to an individual duty. On the basis of the illegality identified by the Court, there is no legal ground for completely exempting the products produced by the exporting producers concerned from paying any anti-dumping duty. A new act remedying the illegality identified by the Court therefore only needs to reassess the applicable anti-dumping duty rate, and not the measures themselves.

(66) Since it is concluded that the residual duty applicable to China and Vietnam respectively should be re-imposed in respect of the exporting producers concerned at the same rate as originally imposed by the contested Regulation and Implementing Regulation (EU) No 1294/2009, no changes are required to Regulation (EC) No 388/2008. That latter regulation remains valid.

C. **CONCLUSIONS**

(67) Having taken account of the comments made and the analysis thereof, it was concluded that the residual anti-dumping duty applicable to China and Vietnam, i.e. 16,5 % and 10 % respectively, should be re-imposed for the period of application of the contested Regulation.

D. **DISCLOSURE**

(68) The exporting producers concerned and all parties that came forward were informed of the essential facts and considerations on the basis of which it was intended to recommend the re-imposition of the definitive anti-dumping duty on exports of the 19 exporting producers concerned. They were granted a period within which to make representations subsequent to disclosure.

E. **COMMENTS OF INTERESTED PARTIES AFTER DISCLOSURE**

(69) Following disclosure, the Commission received comments on behalf of (i) FESI and the Footwear Coalition ([24]) representing importers of footwear in the Union; and (ii) Cortina NV ('Cortina'), an importer of footwear in the Union.

(70) In their comments to the disclosure, FESI and the Footwear Coalition first noted that the current implementation is based on the same legal grounds and reasons as the regulations previously adopted by the Commission related to the same implementation procedure, i.e. Implementing Regulations (EU) 2016/1395, (EU) 2016/1647, (EU) 2016/1731 and (EU) 2016/2257. Therefore, in their reply to the disclosure, they referred to, and incorporated by reference, the comments they had filed in relation to the above Regulations on 16 December 2015, 6 June 2016, 16 June 2016 and 11 August 2016 respectively, without, however, detailing such comments and claims.

(71) In reply to these comments the Commission refers to Implementing Regulations (EU) 2016/1395, (EU) 2016/1647, (EU) 2016/1731 and (EU) 2016/2257 which fully addressed the comments made by FESI and the Footwear Coalition in the current implementation. Since FESI and the Footwear Coalition did not elaborate on their arguments any further, the Commission considers that these have been fully replied to in the above regulations and the conclusions made in this regard in these regulations are herewith confirmed.

(72) In addition, FESI and the Footwear Coalition provided comments that are addressed in detail below.

Status of companies listed in Annex III

(73) FESI and the Footwear Coalition submitted that the approach followed by the Commission with regard to the companies listed in Annex III was illegal. Thus, by listing in Annex III companies that were related to companies already assessed in the context of Implementing Regulations (EU) 2016/1395, (EU) 2016/1647, (EU) 2016/1731 or (EU) 2016/2257, the Commission had breached the concept of 'single economic entity' however applied in the original investigation. In addition, such approach would lead to legal inconsistencies as via the previously mentioned Regulations the Commission re-imposed anti-dumping duties on these companies, while in Annex III the same companies are listed as companies that appear not have submitted any MET/IT claim in the original investigation.

(74) As for unrelated traders, as they had no legal requirement to file MET/IT claims during the original investigation it would in any event not be required to list them in Annex III.

(75) Finally, for companies related to Chinese or Vietnamese suppliers that had filed an MET/IT claim in the original investigation, but have not yet been assessed in any regulation referred to in recital (63), in the context of the implementation of the judgments referred to in recital (12), FESI and the Footwear Coalition argued that those should also not have been listed in Annex III. In particular, it was claimed that such an approach would prevent the Commission in future to assess any MET/IT claim of their related suppliers in China or Vietnam. The same parties also claimed that it would be the Commission's obligation to identify from the list of companies notified by the national customs authorities those companies/traders belonging to the same company group and whether they form part of any of the Chinese or Vietnamese exporting producers that filed a MET/IT claim during the original investigation but that were not sampled during the original investigation. Otherwise, the Commission would create an impossible burden of proof for the interested parties.

(76) As mentioned in recital (34), following disclosure, FESI and the Footwear Coalition, identified indeed companies that were related to Chinese or Vietnamese exporting producers that had submitted a MET/IT claim form during the original investigation, but were not sampled and that had also not been assessed in previous implementation exercises mentioned in recitals (18) to (20) and (25). The information in the file confirmed the information received by these interested parties, so that the MET/IT requests of these companies will be assessed. The outcome of this assessment will be subject to a separate legal act. The request with regard to these companies was therefore granted and these companies are not listed in Annex III.

(77) With regard to traders that claimed re-imbursement of the duties paid (related or unrelated to Chinese or Vietnamese suppliers), the Commission considers that the burden of proof lies with these traders.

(78) None of the traders listed in Annex III provided, however, information or proof of their suppliers in China or Vietnam (with the exception of the ones mentioned in recital (76)).

(79) The Commission recognises, however, that not all importers that bought footwear from those traders may have been aware of the need to inform the Commission of the names of the exporting producers from which those traders acquired their footwear. In order to ensure full respect of their rights of defence, the Commission therefore has decided to specifically contact the importers in question and make them aware of the situation and their burden of proof. In order to provide for the time necessary to implement this decision, the examination of the companies listed in Annex III is temporarily suspended until the Commission has contacted the relevant importers and given them time to react. The deadline of eight months for assessing MET/IT claims will start on

the day the importer informs the Commission of the names and addresses of the exporting producers concerned, or, where no reply is received within the time period determined by the Commission, from the date of expiry of that time period.

Suspension of ongoing implementation exercise

(80) FESI and the Footwear Coalition argued also that in the interest of legal certainty, the Commission should not adopt and publish any further legal acts regarding the implementation of the judgment of the Court of Justice in Joined Cases C-659/13 and C-34/14, until the Court of Justice rules on an ongoing preliminary rulings on the validity of Implementing Regulation (EU) 2016/223 referred to in recital (23) and the validity of Implementing Regulation (EU) 2016/1647 referred to in recital (19) and Implementing Regulation (EU) 2016/1731 referred to in (20). In this respect, it was argued that Article 278 TFEU, whereas a legal action against legal acts adopted by the institutions does not have suspensive effect, is not applicable in the current case because the claim made in this regard is not to suspend Implementing Regulation (EU) 2016/223, but to refrain to adopt further Regulations re-imposing the definitive anti-dumping duties on imports of footwear from China and Vietnam. For the same reasons, it was also argued that the judgments in the Zuckerfabrik Süderdithmarschen/Altana were not a legally relevant reference.

(81) Regarding Article 278 TFEU and the Zuckerfabrik Süderdithmarschen/Altana judgments, the Commission agrees with FESI and the Footwear Coalition that that case-law is not applicable to assess whether or not to suspend the implementation of the judgment of the Court of Justice in Joined Cases C-659/13 and C-34/14. However, the Commission considers that it is obliged to implement that judgment in a reasonable time-frame, and that ongoing proceedings concerning earlier acts implementing that judgment do not constitute a valid reason for not finalising the implementation of the judgment. In particular, it considers that doing so would deprive interested parties other than FESI and the Footwear Coalition from exercising their rights in the administrative procedure and in a possible court procedure.

(82) Regarding the validity of Implementing Regulations (EU) 2016/1647 and (EU) 2016/1731, FESI and the Footwear Coalition claimed that given that the latter and any new Regulation re-imposing definitive duties on imports of footwear originating in China and Vietnam have the same legal basis, approach and reasoning of the Commission and the invalidation of Implementing Regulations (EU) 2016/1647 and (EU) 2016/1731 would also entail that any further similar Regulation would be equally invalid. The Commission's approach would therefore not reflect a good faith effort in implementing the judgment in the Joined Cases C-659/13 C & J Clark International and C-34/14 Puma referred to in recital (12).

(83) Finally, FESI and the Footwear Coalition argued that the implementation of the above judgment would not be subject to any deadlines imposed by the Court of Justice, would have a negative impact on the importers in the Union, while on the other hand would not have any fiscal advantage for the Union. For these reasons the Commission should refrain from implementing the judgment, pending the outcome of the Court cases mentioned in recital (80).

(84) The Commission refers to the reasons set out above at recital (81).

Procedural requirements when assessing MET and IT claim forms

(85) FESI and the Footwear Coalition claimed that the burden of proof when assessing MET/IT claims lies with the Commission, as the Chinese and Vietnamese exporting producers had discharged the burden by submitting the MET/IT claims in the original investigation. FESI and the Footwear Coalition also claimed that the same procedural rights should have been granted to the exporting producers concerned by the current implementation as those granted to the sampled exporting producers during the original investigation. FESI and the Footwear Coalition argued in particular, that only a desk analysis had been carried out rather than on-spot verification visits, and that the Chinese and Vietnamese exporting producers were not provided any opportunity to complement their MET/IT claim forms via deficiency letters.

(86) FESI and the Footwear Coalition further argued that the exporting producers concerned by this implementation were not provided with the same procedural guarantees than those applied in standard anti-dumping investigations, but stricter standards were applied. FESI and the Footwear Coalition claimed that the Commission has not taken into account the time lag between the filing of the MET/IT request in the original investigation and the assessment of these claims. In addition, exporting producers during the original investigation were only provided 15 days in order to fill in the MET/IT requests, instead of the usual 21 days.

(87) On this basis, FESI and the Footwear Coalition claimed that the fundamental legal principle of granting interested parties full opportunity to exercise their rights of defence laid down in Article 41 of the Charter of Fundamental Rights of the European Union and Article 6 of the Treaty on European Union, was not respected. On this basis, it was argued that by not giving the exporting producers the opportunity to complete incomplete information the Commission misused its powers and effectively reversed the burden of proof at the stage of the implementation.

(88) Finally, FESI and the Footwear Coalition also claimed that this approach would be discriminatory vis-à-vis the Chinese and Vietnamese exporting producers that were sampled in the original investigation, but also other exporting producers in non-market economy countries that were subject to an anti-dumping investigation and filed MET/IT claims in that investigation. Thus, the Chinese and Vietnamese companies concerned by the current implementation should not be made subject to the same information provision threshold as applied in a normal 15 months investigation and should not be subject to stricter procedural standards.

(89) FESI and the Footwear Coalition also claimed that the Commission applied de facto facts available within the meaning of Article 18(1) of the basic Regulation, while the Commission did not comply with the procedural rules set out in Article 18(4) of the basic Regulation.

(90) The Commission recalls that according to the case-law, the burden of proof lies with the producer wishing to claim MET/IT under Article 2(7)(b) of the basic Regulation. To that end, the first subparagraph of Article 2(7)(c) provides that the claim submitted by such a producer must contain sufficient evidence, as laid down in that provision, that the producer operates under market economy conditions. Accordingly, as held by the Court in the judgments in Brosmann and Aokang, there is no obligation on the institutions to prove that the producer does not satisfy the conditions laid down for the recognition of such status. On the contrary, it is for the Commission to assess whether the evidence supplied by the producer concerned is sufficient to show that the criteria laid down in the first subparagraph of Article 2(7)(c) of the basic Regulation are fulfilled in order to grant it MET/IT (see recital (48)). In that regard, it is recalled that there is no obligation for the Commission to request the exporting producer to complement the MET/IT claim. The Commission may base its assessment on the information submitted by the exporting producer.

(91) In relation to the argument that only a desk analysis was carried out, the Commission notes that a desk analysis is a procedure whereby the requests for MET/IT are analysed on the basis of the documents submitted by the exporting producer. All MET/IT applications are subject to a desk analysis by the Commission. In addition, the Commission may decide to carry out on-site inspections. On-site inspections are, however, not required, nor are they carried out for every application for MET/IT. On-site inspections, where they are carried out, usually have as their purpose to confirm a certain preliminary assessment made by the institutions and/or to check the veracity of the information provided by the exporting producer concerned. In other words, if the evidence submitted by the exporting producer clearly shows that MET/IT is not warranted, the additional and optional step of on-site inspections would typically not be organised. It is for the Commission to assess whether a verification visit is appropriate ([25]). The discretion to decide on the means of verifying the information in an MET/IT form lies with that institution. So, where, as in the present case, the Commission decides, on the basis of a desk analysis, that it was in possession of sufficient evidence to rule on an MET/IT claim, a verification visit is not necessary and cannot be required.

(92) Concerning the claim that the rights of defence were not appropriately respected through the Commission's decision not to send deficiency letters, it is, first of all, recalled that rights of defence are subjective rights, and that FESI and the Footwear Coalition cannot rely on a violation of a subjective right of other companies. Second, the Commission contests the assertion that there is a practice by the Commission that significant exchange of information and a detailed deficiency completion process is carried out when use is made of desk analysis alone as opposed to desk analysis plus on-site verification. Indeed, FESI and the Footwear Coalition have not been able to provide evidence to the contrary.

(93) FESI and the Footwear Coalition's comments on discrimination must equally be rejected as unfounded. It is recalled the principle of equal treatment is violated where the Union institutions treat like cases differently, thereby placing some traders at a disadvantage by comparison to others, without such differentiation being justified by the existence of substantial objective differences ([26]). Yet, that is precisely not what the Commission is doing: by requiring the non-sampled Chinese and Vietnamese exporting producers to file MET/IT claims for re-assessment, it intends to bring these formerly non-sampled exporting producers on the same footing as those who were sampled in the initial investigation. In addition, as the basic Regulation does not set out a minimum

timeframe in this regard, so long as the timeframe for this purpose is reasonable and provides the parties with sufficient opportunity to assemble (or re-assemble) the information needed while at the same time safeguarding their rights of defence, no discrimination occurs.

(94) Regarding Article 18(1) of the basic Regulation, in the current case, the Commission accepted the information provided by the exporting producers concerned, it did not reject this information and based its assessment on it. Therefore, the Commission did not apply Article 18. It follows that there was no need to follow the procedure under Article 18(4) of the Basic Regulation. The procedure under Article 18(4) is followed in cases where the Commission intends to reject certain information provided by the interested party and to use facts available instead.

Legal basis of re-opening of the investigation

(95) FESI and the Footwear Coalition argued that the Commission would be in breach of Article 266 TFEU, as this article does not provide it with the legal basis to reopen the investigation with respect to an expired measure. FESI and the Footwear Coalition also reiterated that Article 266 TFEU does not allow for the imposition of anti-dumping duties retroactively, which would also be confirmed by the ruling of the Court of Justice in case C-458/98P IPS v Council.

(96) In this regard, FESI and the Footwear Coalition argued that the anti-dumping proceeding concerning imports of footwear from China and Vietnam had been concluded on 31 March 2011 with the expiry of the measures. To this aim, the Commission had issued a notice in the *Official Journal of the European Union* regarding the expiry of the duties on 16 March 2011 ([27]) ('notice of expiry'), the Union industry had not claimed any continuation of dumping and also the judgment of the Court of Justice of the European Union did not invalidate the notice of expiry.

(97) In addition, the same parties argued that there would also not be any grounds in the basic Regulation which would allow the Commission to re-open the anti-dumping investigation.

(98) In this context, FESI and the Footwear Coalition argued in addition that the resumption of the investigation and the assessment of the MET/IT claims filed by the Chinese and Vietnamese exporting producers concerned in the original investigation is in violation of the universal principle of prescription or limitation. This principle is laid down in the WTO Agreement and the basic Regulation that set a 5-year time limit for the duration of measures and in Articles 236(1) and 221(3) of the Community Customs Code that set a 3-year period for importers to claim the repayment of anti-dumping duties on the one hand and for national customs authorities to collect import duties and anti-dumping duties on the other hand ([28]). Article 266 of the TFEU does not allow from the deviation of this principle.

(99) Finally, it was claimed that the Commission has not provided any reasoning or prior jurisprudence to support of the use of Article 266 TFEU as a legal basis for the re-opening of the procedure.

(100) Concerning the lack of any legal basis to re-open the investigation, the Commission recalls the case-law quoted above at recital (15), pursuant to which it may resume the investigation at the very point at which the illegality occurred. According to the case-law, the legality of an anti-dumping Regulation has to be assessed in the light of the objective norms of Union law, and not of a decisional practice, even where such a practice exists (which is not the case here). Hence, the Commission's past practice, *quod non*, cannot create legitimate expectations: pursuant to settled case-law of the Court, legitimate expectations can only arise where the institutions have given specific assurances which would allow an interested party to lawfully deduce that the Union institutions would act a certain way ([29]). Neither FESI nor the Footwear Coalition have attempted to demonstrate that such assurances were given in the present case. That is all the more the case because the previous practice referred to does not correspond to the factual and legal situation of the present case, and whose differences can be explained by factual and legal differences with the present case.

(101) Those differences are as follows: The illegality identified by the Court does not concern the findings on dumping, injury, and Union interest, and therefore the principle of the imposition of the duty, but only the precise duty rate. The previous annulments relied on by the interested parties, on the contrary, concerned the findings on dumping, injury and Union interest. The institutions are therefore permitted to recalculate the precise duty rate for the exporting producers concerned.

(102) In particular, in the present case, there was no need to seek additional information from interested parties. Rather, the Commission had to assess information that had been filed, but not assessed before the adoption of Regulation (EC) No 1472/2006. In any event, as noted in recital (100) above, previous practice in other cases does not constitute precise and unconditional assurance for the present case.

(103) Finally, all parties against which the proceeding is directed, i.e. the exporting producers concerned, as well as the parties in the Court cases and the association representing one of those parties, have been informed by the disclosure of the relevant facts on the basis of which the Commission intends to adopt the present MET/IT assessment. Hence, their rights of defence are safeguarded. In that regard, it is to be noted in particular that unrelated importers do not enjoy, in an antidumping proceeding, rights of defence, as those proceedings are not directed against them.

(104) As regards the claim that the measures in question expired on 31 March 2011, the Commission fails to see why the expiry of the measure would be of any relevance for the possibility for the Commission to adopt a new act to replace the annulled act following a judgment annulling the initial act. According to the case-law referred to in recital (15) above, the administrative procedure should be resumed at the point in time where the illegality occurred.

(105) The anti-dumping proceedings are hence, as a result of the annulment of the act concluding the proceedings, still open. The Commission is under an obligation to close those proceedings; Article 9(4) of the basic Regulation provides that an investigation has to be closed by an act of the Commission.

Article 236 of the Community Customs Code

(106) FESI and the Footwear Coalition also submitted that the procedure adopted to reopen the investigation and retroactively impose the duty amounts to an abuse of powers by the Commission and violates of the TEU. FESI and the Footwear Coalition sustain in this regard that the Commission does not have the authority to interfere with Article 236(1) of the Community Customs Code by preventing the repayment of the anti-dumping duties. They argued that it was up to the national customs authorities to draw the consequences from an invalidation of an act imposing anti-dumping duties and that the national customs authorities would also be obliged to reimburse those duties that had been declared invalid by the Court.

(107) In this regard, FESI and the Footwear Coalition claimed that Article 14(3) of the basic Regulation does not allow the Commission to derogate from Article 236 of the Community Customs Code, as both legislations are of an equal legal order and the basic Regulation cannot be seen as a *lex specialis* of the Community Customs Code.

(108) Furthermore, the same parties continued Article 14(3) of the basic Regulation does not refer to Article 236 of the Community Customs Code and only states that special provisions may be adopted by the Commission, but no derogations to the Community Customs Code.

(109) In response thereto, it is important to underline that Article 14(1) of the basic Regulation does not automatically render applicable the rules governing Union customs legislation to the imposition of the individual anti-dumping duties. ([30]) Rather, Article 14(3) of the basic Regulation gives the Union's institutions the right to transpose and make applicable, where necessary and useful, the rules governing the Union's customs legislation ([31]).

(110) This transposition does not require a full application of all the provisions of the Union's customs legislation. Article 14(3) of the basic Regulation explicitly envisages special provisions with regard to the common definition of the concept of origin, a good example of where deviation from the provisions of the Union's customs legislation occurs. It is on that basis that the Commission made use of the powers arising from Article 14(3) of the basic Regulation and required that national customs authorities refrain temporarily from any reimbursement. This does not challenge the exclusive competence that national customs authorities have in relation to disputes concerning customs debt: the decision-making authority remains with the customs authorities of the Member States. The Member States customs authorities still decide, on the basis of the conclusions reached by the Commission vis-à-vis the MET and IT claims, whether reimbursement should be granted or not.

(111) Thus, while it is true that nothing in the Union's customs legislation allows for an obstacle to the reimbursement of erroneously paid customs duties to be erected, no such sweeping statement can be made in relation to the reimbursement of anti-dumping duties. Accordingly, and with the overarching necessity to protect the Union's own resources from unjustified requests for repayment and the related difficulty this would have caused pursuing unjustified repayments thereafter, the Commission had to deviate temporarily from the Union's customs legislation by making use of its powers under Article 14(3) of the basic Regulation.

Lack of statement of legal basis

(112) FESI and the Footwear Coalition also argued that in violation of Article 296 TFEU, the Commission failed to provide adequate statement of reasons and indication of the legal basis on which duties were re-imposed retroactively and therefore the reimbursement of duties denied to the importers concerned by the current implementation. Accordingly, FESI and the Footwear coalition claimed that the Commission had breached the right to effective judicial protection of interested parties.

(113) The Commission considers that the extensive legal reasoning provided in the general disclosure document and in this Regulation duly motivates the latter.

Legitimate expectations

(114) FESI and the Footwear Coalition claimed further that the retroactive correction of expired measures violates the principle of protection of legitimate expectations. FESI argued that first, parties including importers, would have received assurance that the measures expired on 31 March 2011 and that given the time elapsed since the original investigation, parties were entitled to have justified expectations that the original investigation will not be resumed or reopened. Likewise, the Chinese and Vietnamese exporting producers were entitled to have justified legitimate expatiations that their MET/IT claims provided in the original investigation would not be reviewed anymore by the Commission, based on the mere fact that these claims were no assessed within the three-month period applicable during the original investigation.

(115) Regarding legitimate expectations of interested parties that anti-dumping measures expired and that the investigation will not be re-opened anymore, reference is made to recitals (104) and (105) where these claims had been addressed in detail.

(116) Regarding the legitimate expectations of Chinese and Vietnamese exporting producers not to have their MET/IT claims reviewed, reference is made to recital (100) above, where this has equally been addressed in light of the case-law of the Court on this matter.

Principle of non-discrimination

(117) FESI and the Footwear Coalition submitted that the imposition of anti-dumping measures with retroactive effects constitutes discrimination of (i) the importers concerned by the current implementation vis-à-vis importers concerned by the implementation of the Brosmann and Aokang judgments referred to in recital (6) that were reimbursed duties paid on imports of footwear from the five exporting producers concerned by these judgments; as well as (ii) a discrimination of the exporting producers concerned by the current implementation vis-à-vis the five exporting producers concerned by the Brosmann and Aokang judgments which were not made subject of any duty following Implementing Decision 2014/149/EU.

(118) Regarding the claim on discrimination, the Commission recalls first of all the requirements for discrimination, as set out in recital (93) above.

(119) Then, it is noted that the difference between importers concerned by the current implementation and those concerned by the implementation of the Brosmann and Aokang judgments is that the latter decided to challenge Regulation (EC) No 1472/2006 in the General Court, whereas the former did not.

(120) A decision adopted by a Union institution, which has not been challenged by its addressee within the time-limit laid down by the sixth paragraph of Article 263 TFEU, becomes definitive as against him. That rule is based in particular on the consideration that the periods within which legal proceedings must be brought are intended to ensure legal certainty by preventing Union measures which produce legal effects from being called into question indefinitely ([32]).

(121) This procedural principle of Union law necessarily creates two groups: those which challenged a Union measure and who may have gained a favourable position as a result (like Brosmann and the other four exporting producers), and those who did not. Yet, that does not mean that the Commission has treated the two parties unequally in violation of the principle of equal treatment. An acknowledgement that a party falls into the latter category because of a conscious decision not to challenge a Union measure does not discriminate against that group.

(122) So, all interested parties did enjoy judicial protection in the Union courts at all times.

(123) Insofar as it concerns the alleged discrimination of the exporting producers concerned by the current implementation which were not made subject of any duty following Implementing Decision 2014/149/EU, it should be noted that the decision of the Council not to re-impose duties was clearly taken with regard to the particular circumstances of the specific situation as it stood at the time the Commission made its proposal for the re-imposition of those duties and in particular on the grounds that the anti-dumping duties concerned had already been reimbursed, and to the extent that the original communication of the debt to the debtor in question had been withdrawn following the judgments in Brosmann and Aokang. According to the Council, this reimbursement had created legitimate expectations on the part of the importers concerned. Since no comparable reimbursement took place for other importers, these are not in a comparable situation to those importers concerned by the Council decision.

(124) In any event, the fact that the Council chose to act in a certain way, given the particular circumstances of the case before it, cannot bind the Commission to implement another judgment in the exact same way.

Commission's competence to impose definitive anti-dumping measures

(125) In addition, FESI and the Footwear Coalition claimed that the Commission does not have the competence to adopt the Regulation imposing an anti-dumping duty retroactively in the current implementation exercise, and that this competence would in any event lie with the Council. This claim was based on the argument that if the investigation is resumed at the very point at which the illegality occurred, the same rules should also be applicable than the ones at the time of the original investigation, where definitive measures were adopted by the Council. These parties argued that in accordance with Article 3 of Regulation (EU) No 37/2014 of the European Parliament and of the Council ([33]) (also called 'Omnibus I Regulation') the new decision-making procedure in the field of the common commercial policy does not apply to the present context given that before the entry into force of the Omnibus I Regulation the Commission (i) had already adopted an act (the provisional Regulation); (ii) the consultations that were required under Regulation (EC) No 384/96 were initiated and concluded; and (iii) the Commission had already adopted a proposal for a Council Regulation adopting definitive measures. On this basis, these parties concluded that the decision making procedures prior to the entry in force of the Omnibus I Regulation should apply.

(126) That claim, however, focuses on the date of initiation of the investigation (which is indeed relevant in relation to the other substantive amendments that were made to the basic Regulation) but fails to note that Regulation (EU) No 37/2014 uses a different criterion (that is, the initiation of the procedure for adoption of measures). The position of FESI and the Footwear Coalition is therefore based on an incorrect interpretation of the transitional rule in Regulation (EU) No 37/2014.

(127) Indeed, given the reference in Article 3 of Regulation (EU) No 37/2014 to '*procedures initiated for the adoption of measures*', which sets out the transitional rules for the changes to the decision-making procedures for the adoption of anti-dumping measures, and given the meaning of 'procedure' in the basic Regulation, for an investigation that was initiated prior to the entry into force of Regulation (EU) No 37/2014, but where the Commission had not launched the consultation of the relevant committee with a view to adopting measures prior to that entry into force, the new rules apply to the procedure for adopting said anti-dumping measures. The same holds true for proceedings where measures had been imposed on the basis of the old rules and come up for review, or for measures where provisional duties had been imposed on the basis of the old rules, but the procedure for adopting definitive measures had not been launched yet when Regulation (EU) No 37/2014 entered into force. In other words, Regulation (EU) No 37/2014 applies to a specific '*procedure for adoption*' and not to the entire period of a given investigation or even proceeding.

(128) Accordingly, the decision-making procedure introduced by the Omnibus I Regulation was the correct one to apply.

(129) With regard to Cortina, it first claimed that the Commission has no legal basis to investigate the MET/IT claims submitted by exporting producers in the original investigation. Cortina argued that the proceeding, which was closed by the expiry of the measures on 31 March 2011, was not invalidated by the judgment in Joined Cases C-659/13 and C-34/14, and that therefore, it cannot be re-opened.

(130) In reply to this comment, the Commission refers to the explanation provided in recitals (104) and (105) above.

(131) Second, Cortina claimed that the current proceeding is in breach of the principles of non-retroactivity and legal certainty enshrined in Article 10 of the basic Regulation.

(132) As to the claim concerning retroactivity based on Article 10 of the basic Regulation and Article 10 of the WTO Anti-Dumping Agreement ('WTO ADA'), Article 10(1) of the basic Regulation, which follows the text of Article 10(1) of the WTO ADA, stipulates that provisional measures and definitive anti-dumping duties shall only be applied to products which enter free circulation after the time when the decision taken pursuant to Article 7(1) or 9(4) of the basic Regulation, as the case may be, enters into force. In the present case, the anti-dumping duties in question are only applied to products which entered into free circulation after the provisional and the contested (definitive) Regulation taken pursuant to 7(1) and 9(4) of the basic Regulation respectively had entered into force. Retroactivity in the sense of Article 10(1) of the basic Regulation, however, refers only to a situation where the goods were introduced into free circulation before measures were introduced, as can be seen from the very text of that provision as well as from the exception for which Article 10(4) of the basic Regulation provides.

(133) The Commission also observes that there is neither violation of the principle of retroactivity, nor violation of legal certainty and legitimate expectations involved in the present case.

(134) As to retroactivity, the case-law of the Court distinguishes, when assessing whether a measure is retroactive, between the application of a new rule to a situation that has become definitive (also referred to as an existing or definitively established legal situation) ([34]), and a situation that started before the entry into force of the new rule, but which is not yet definitive (also referred to as a temporary situation) ([35]).

(135) In the present case, the situation of the imports of the products concerned that occurred during the period of application of Regulation (EC) No 1472/2006 has not yet become definitive, because, as a result of the annulment of the contested Regulation, the anti-dumping duty applicable to them has not yet been definitively established. At the same time, importers of footwear were warned that such a duty may be imposed by the publication of the Notice of Initiation ([36]) and the provisional Regulation. It is standing case-law of the Union Courts that operators cannot acquire legitimate expectations until the institutions have adopted an act closing the administrative procedure, which has become definitive ([37]).

(136) This Regulation constitutes immediate application to the future effects of a situation that is ongoing: The duties on footwear have been levied by national customs authorities. As a result of the requests for reimbursement, which have not been decided in a definitive way, they constitute an ongoing situation. This Regulation sets out the duty rate applicable to those imports, and hence regulates the future effects of an ongoing situation.

(137) In any event, even if there was retroactivity in the sense of Union law, *quod non*, such retroactivity would be justified, for the following reason:

(138) The substantive rules of Union law may apply to situations existing before their entry into force in so far as it clearly follows from their terms, objectives or general scheme that such effect must be given to them ([38]). In particular, in case C-337/88 Società agricola fattoria alimantare (SAFA) it was held that: *'[A]lthough in general the principle of legal certainty precludes a Community measure from taking effect from a point in time before its publication, it may exceptionally be otherwise where the purpose to be achieved so demands and where the legitimate expectations of those concerned are duly respected'* ([39]).

(139) In the present case, the purpose is to comply with the obligation of the Commission pursuant to Article 266 TFEU. Since, in the judgments referred to in recital (12) above, the Court only found an illegality with regard to the determination of the applicable duty rate, and not with regard to the imposition of the measures themselves (that is, with regard to the finding of dumping, injury, causation and Union interest), the exporting producers concerned could not have legitimately expected that no definitive anti-dumping measures would be imposed. Consequently, that imposition, even if it was retroactive, *quod non*, cannot be construed as breaching legitimate expectations.

(140) Third, Cortina claimed that the Commission's statement in recital (46) that the Court of Justice annulled the contested Regulation and Implementing Regulation (EU) No 1294/2009 with regard to exports of certain

footwear from certain Chinese and Vietnamese exporting producers is incorrect, insofar as judgment in cases C-659/13 and C-34/14 did not annul Regulation (EC) No 1472/2006 and Implementing Regulation (EU) No 1294/2009 with regard to the 19 exporting producers concerned, but it had annulled these regulations with *erga omnes* effect. According to Cortina, if the Commission were to re-impose an anti-dumping duty only on imports from the 19 exporting producers concerned, and not on imports from other exporting producers equally affected by the judgment of the Court of Justice in Joined Cases C-659/13 and C-34/14 C & J Clark International Limited and Puma SE, it would constitute unjustifiable discrimination vis-à-vis imports of these other exporting producers, and it would also be in breach of Article 266 TFEU.

(141) Regarding the claim of discriminatory treatment vis-à-vis imports of other exporting producers affected by the judgment of the Court of Justice in the Joined Cases C-659/13 and C-34/14 C & J Clark International Limited and Puma SE, the Commission observes that exporting producers and certain importers concerned by this Regulation enjoy judicial protection in the Union courts against it. Other importers enjoy such protection via the national courts and tribunals, which act as judges of ordinary Union law.

(142) As mentioned in recital (21), in view of the implementation of the judgment in Joined Cases C-659/13 and C-34/14 C & J Clark International Limited and Puma SE, the Commission adopted Implementing Regulation (EU) 2016/223. In Article 1 of that regulation the Commission instructed national customs authorities to forward all requests for reimbursement of the definitive anti-dumping duties paid on imports of footwear originating in China and Vietnam made by importers based on Article 236 of the Community Customs Code and based on the fact that a non-sampled exporting producer had requested MET or IT in the original investigation. The Commission will assess the relevant MET or IT claim and re-impose the appropriate duty rate. On this basis the national customs authorities will subsequently decide on the request for repayment and remission of the anti-dumping duties.

(143) Therefore, for all imports of footwear where the above criteria are fulfilled the Commission will examine the MET and IT claims and anti-dumping duties will be re-imposed based on the objective criteria laid down in Articles 2(7)(b) and 9(5) of the basic Regulation prior to its amendment. Therefore, all other non-sampled exporting producers from the PRC and Vietnam and their importers will be treated in the same fashion at a later stage pursuant to the procedure set out in Implementing Regulation (EU) 2016/223. It is only where there are no outstanding national procedures that no assessment of the MET and IT claims will be carried out, as it would serve no practical purpose.

(144) Fourth, Cortina claimed that it would be discriminatory to re-impose an anti-dumping duty on the 19 exporting producers concerned, given that no anti-dumping duty was re-imposed following the Brosmann and Aokang judgments.

(145) This claim is unfounded. Importers that have imported from Brosmann and the other four exporting producers concerned by the judgments in cases C-247/10 P and C-249/10 P, are in a different factual and legal situation, because their exporting producers decided to challenge the contested Regulation and because they were reimbursed their duties, so that they are protected by Article 221(3) of the Community Customs Code. No such challenge and no such reimbursement have taken place for others. See, in this regard, also recitals (118) to (122) above.

(146) Fifth, Cortina alleged that there were several procedural irregularities resulting from this investigation. In the first place, they argued that the exporting producers concerned may no longer be in a position to provide meaningful comments or adduce additional evidence to support their MET/IT claims that they made several years ago. For example, the companies may no longer exist or relevant documents may no longer be available.

(147) In addition, Cortina argued that unlike during the original investigation, the Commission's measures would de facto and de jure affect only importers, whereas they have no means of providing any meaningful input and cannot require their suppliers to cooperate with the Commission.

(148) The Commission observes that nothing in the basic Regulation requires the Commission to give exporting companies claiming MET/IT the possibility to complete lacking factual information. It recalls that according to the case-law, the burden of proof lies with the producer wishing to claim MET/IT under Article 2(7)(b) of the

basic Regulation. To that end, the first subparagraph of Article 2(7)(c) provides that the claim submitted by such a producer must contain sufficient evidence, as laid down in that provision, that the producer operates under market economy conditions. Accordingly, as held by the Court in the judgments in Brosmann and Aokang, there is no obligation on the institutions to prove that the producer does not satisfy the conditions laid down for the recognition of such status. On the contrary, it is for the Commission to assess whether the evidence supplied by the producer concerned is sufficient to show that the criteria laid down in the first subparagraph of Article 2(7)(c) of the basic Regulation are fulfilled in order to grant it MET/IT (see above recital (44). The right to be heard concerns the assessment of those facts, but does not comprise the right to remedy deficient information. Otherwise, the exporting producer could prolong indefinitely the assessment, by providing information piece by piece.

(149) In that regard, it is recalled that there is no obligation, for the Commission, to request the exporting producer to complement the MET/IT claim. As mentioned in the preceding recital, the Commission may base their assessment on the information submitted by the exporting producer. In any event, the exporting producers concerned have not contested the assessment of their MET/IT claims by the Commission, and they have not identified which documents or which people they have no longer been able to rely upon. The allegation is therefore so abstract that the institutions cannot take into account those difficulties when carrying out the assessment of the MET/IT claims. As that argument is based on speculation and not supported by precise indications as to which documents and which people are no longer available and as to what the relevance of those documents and people for the assessment of the MET/IT claim is, that argument is rejected.

(150) Regarding the claim that an importer would have no means to provide any meaningful input, the Commission observes the following: first, importers do not enjoy rights of defence, as the anti-dumping measure is not directed against them, but against the exporting producers. Second, importers had the opportunity to comment on that point already during the administrative procedure prior to the adoption of the contested Regulation. Third, if importers thought that there was an irregularity in that regard, they had to take the necessary contractual arrangements with their suppliers to ensure to dispose of the necessary documentation. Therefore, the claim has to be rejected.

(151) Sixth, Cortina argued that the Commission failed to examine whether the imposition of the anti-dumping duties would be in the Union interest and argued that the measures would be against the Union interest because (i) the measures already had their intended effect when first imposed; (ii) the measures would not cause additional benefit for the Union industry; (iii) the measures would not affect the exporting producers; and (iv) the measures would impose an important cost on the importers in the Union.

(152) The present case only concerns the MET/IT requests, because this is the only point on which a legal error has been identified by the Union Courts. For Union interest, the assessment in Regulation (EC) No 1472/2006 remains fully valid. Furthermore, the present measure is justified in order to protect the financial interest of the Union.

(153) Seventh, Cortina claimed that the anti-dumping duty, if re-imposed, could no longer be collected because of the statute of limitations of Article 221(3) of the Community Customs Code (now Article 103(1) of the Union Customs Code) had expired. According to Cortina, this situation would constitute an abuse of power by the Commission.

(154) The Commission recalls that according to Article 221(3) of the Community Customs Code/103(1) of the Union Customs Code, the statute of limitations does not apply where an appeal pursuant to Article 243 of the Community Customs Code/Article 44(2) of the Union Customs Code is lodged, as in all the present cases, which concern appeals on the basis of Article 236 of the Community Customs Code/Article 119 of the Union Customs Code. An appeal within the meaning of Article 103(3) of the Union Customs Code, pursuant to the clarification in Article 44(2) of the same regulation, extends from the initial challenge to the decision by the national customs authorities imposing the duties up to the final judgment rendered by the national court, including, where necessary, a reference for a preliminary ruling. The three year period is consequently stayed from the date the challenge is filed.

(155) Lastly, Cortina claimed that, following the expiry of paragraph 15(a)(ii) of China's WTO Protocol of Accession on 11 December 2016, the Commission can no longer rely on the methodology used to determine normal value for Chinese exporters in the original investigation (i.e. the analogue country methodology under Article 2(7)(a) of the basic Regulation).

(156) The contested regulation was adopted in 2006. The relevant legislation applicable to this proceeding is Regulation (EU) 2016/1036. Therefore, this claim is rejected.

(157) This Regulation is in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of footwear with uppers of leather or composition leather, excluding sports footwear, footwear involving special technology, slippers and other indoor footwear and footwear with a protective toecap, originating in the People's Republic of China and Vietnam and produced by the exporting producers listed in Annex II to this Regulation and falling within CN codes: 6403 20 00, ex 6403 30 00 ([40]), ex 6403 51 11, ex 6403 51 15, ex 6403 51 19, ex 6403 51 91, ex 6403 51 95, ex 6403 51 99, ex 6403 59 11, ex 6403 59 31, ex 6403 59 35, ex 6403 59 39, ex 6403 59 91, ex 6403 59 95, ex 6403 59 99, ex 6403 91 11, ex 6403 91 13, ex 6403 91 16, ex 6403 91 18, ex 6403 91 91, ex 6403 91 93, ex 6403 91 96, ex 6403 91 98, ex 6403 99 11, ex 6403 99 31, ex 6403 99 33, ex 6403 99 36, ex 6403 99 38, ex 6403 99 91, ex 6403 99 93, ex 6403 99 96, ex 6403 99 98 and ex 6405 10 00 ([41]) which took place during the period of application of Regulation (EC) No 1472/2006 and Implementing Regulation (EU) No 1294/2009. The TARIC codes are listed in the Annex I to this Regulation.

2. For the purpose of this Regulation, the following definitions shall apply:

— 'sports footwear' shall mean footwear within the meaning of subheading note 1 to Chapter 64 of Annex I of Commission Regulation (EC) No 1719/2005 ([42]),

— 'footwear involving special technology' shall mean footwear having a CIF price per pair of not less than EUR 7,50, for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact, or materials such as low-density polymers and falling within CN codes ex 6403 91 11, ex 6403 91 13, ex 6403 91 16, ex 6403 91 18, ex 6403 91 91, ex 6403 91 93, ex 6403 91 96, ex 6403 91 98, ex 6403 99 91, ex 6403 99 93, ex 6403 99 96, ex 6403 99 98,

— 'footwear with a protective toecap' shall mean footwear incorporating a protective toecap with an impact resistance of at least 100 joules ([43]) and falling within CN codes: ex 6403 30 00 ([44]), ex 6403 51 11, ex 6403 51 15, ex 6403 51 19, ex 6403 51 91, ex 6403 51 95, ex 6403 51 99, ex 6403 59 11, ex 6403 59 31, ex 6403 59 35, ex 6403 59 39, ex 6403 59 91, ex 6403 59 95, ex 6403 59 99, ex 6403 91 11, ex 6403 91 13, ex 6403 91 16, ex 6403 91 18, ex 6403 91 91, ex 6403 91 93, ex 6403 91 96, ex 6403 91 98, ex 6403 99 11, ex 6403 99 31, ex 6403 99 33, ex 6403 99 36, ex 6403 99 38, ex 6403 99 91, ex 6403 99 93, ex 6403 99 96, ex 6403 99 98 and ex 6405 10 00,

— 'slippers and other indoor footwear' shall mean such footwear falling within CN code ex 6405 10 00.

3. The rate of the definitive anti-dumping duty applicable, before duty, to the net free-at-Union-frontier price of the products described in paragraph 1 and manufactured by the exporting producers listed in Annex II to this Regulation shall be 16,5 % for the Chinese exporting producers concerned and 10 % for the Vietnamese exporting producers concerned.

Article 2

The amounts secured by way of the provisional anti-dumping duty pursuant to Regulation (EC) No 553/2006 shall be definitively collected. The amounts secured in excess of the definitive rate of anti-dumping duties shall be released.

Article 3

The assessment of the situation of companies listed in Annex III of this Regulation is temporarily suspended until the importer claiming reimbursement from national customs authorities has informed the Commission of the names and addresses of the exporting producers from which the relevant traders have purchased the footwear, or, where no reply is received within that period of time, the expiry of the deadline set by the Commission for providing that information. That deadline shall be set out in a letter by the Commission to the relevant importer, and shall, in any case, not be shorter than one month.

The Commission shall examine the information received within eight months from the date of receipt. National customs authorities are hereby directed not to reimburse customs duties collected until the Commission has finalised its assessment of those claims.

Article 4

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

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

Done at Brussels, 9 March 2017.

For the Commission
The President
Jean-Claude JUNCKER

(1) OJ L 176, 30.6.2016, p. 21.
(2) Regulation (EC) No 553/2006 of 23 March 2006 imposing provisional anti-dumping measures on imports of certain footwear with uppers of leather originating in the People's Republic of China and Vietnam (OJ L 98, 6.4.2006, p. 3).
(3) Council Regulation (EC) No 1472/2006 of 5 October 2006 imposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and Vietnam (OJ L 275, 6.10.2006, p. 1).
(4) Council Regulation (EC) No 388/2008 of 29 April 2008 extending the definitive anti-dumping measures imposed by Regulation (EC) No 1472/2006 on imports of certain footwear with uppers of leather originating in the People's Republic of China to imports of the same product consigned from the Macao SAR, whether declared as originating in the Macao SAR or not (OJ L 117, 1.5.2008, p. 1).
(5) OJ C 251, 3.10.2008, p. 21.
(6) Council Implementing Regulation (EU) No 1294/2009 of 22 December 2009 imposing a definitive anti-dumping duty on imports of certain footwear with uppers of leather originating in Vietnam and originating in the People's Republic of China, as extended to imports of certain footwear with uppers of leather consigned from the Macao SAR, whether declared as originating in the Macao SAR or not, following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 384/96 (OJ L 352, 30.12.2009, p. 1).
(7) OJ C 295, 11.10.2013, p. 6.
(8) Council Implementing Decision 2014/149/EU of 18 March 2014 rejecting the proposal for an Implementing Regulation reimposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed of certain footwear with uppers of leather originating in the People's Republic of China and produced by Brosmann Footwear (HK) Ltd, Seasonable Footwear (Zhongshan) Ltd, Lung Pao Footwear (Guangzhou) Ltd, Risen Footwear (HK) Co. Ltd and Zhejiang Aokang Shoes Co. Ltd (OJ L 82, 20.3.2014, p. 27).
(9) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

([10]) OJ C 106, 21.3.2016, p. 2.
([11]) Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ L 56, 6.3.1996, p. 1).
([12]) Joined Cases 97, 193, 99 and 215/86 *Asteris AE and others and Hellenic Republic* v *Commission* [1988] ECR 2181, paragraphs 27 and 28.
([13]) Case C-415/96 Spain v Commission [1998] ECR I-6993, paragraph 31; Case C-458/98 P *Industrie des Poudres Sphériques* v *Council* [2000] I-8147, paragraphs 80 to 85; Case T-301/01 *Alitalia* v *Commission* [2008] II-1753, paragraphs 99 and 142; Joined Cases T-267/08 and T-279/08 *Région Nord-Pas de Calais* v *Commission* [2011] II-1999, paragraph 83.
([14]) Case C-415/96 Spain v Commission [1998] ECR I-6993, paragraph 31; Case C-458/98 P *Industrie des Poudres Sphériques* v *Council* [2000] I-8147, paragraphs 80 to 85.
([15]) Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).
([16]) Regulation (EC) No 1225/2009 was subsequently amended by Regulation (EU) No 765/2012 of the European Parliament and of the Council of 13 June 2012 amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community (OJ L 237, 3.9.2012, p. 1). According to Article 2 of Regulation (EU) No 765/2012, the amendments introduced by that amending Regulation only apply to investigations initiated after the entry into force of that Regulation. The present investigation, however, was initiated on 7 July 2005 (OJ C 166, 7.7.2005, p. 14).
([17]) Commission Implementing Regulation (EU) 2016/1395 of 18 August 2016 re-imposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and produced by Buckinghan Shoe Mfg Co. Ltd, Buildyet Shoes Mfg, DongGuan Elegant Top Shoes Co. Ltd, Dongguan Stella Footwear Co. Ltd, Dongguan Taiway Sports Goods Limited, Foshan City Nanhai Qun Rui Footwear Co., Jianle Footwear Industrial, Sihui Kingo Rubber Shoes Factory, Synfort Shoes Co. Ltd, Taicang Kotoni Shoes Co. Ltd, Wei Hao Shoe Co. Ltd, Wei Hua Shoe Co. Ltd, Win Profile Industries Ltd and implementing the judgment of the Court of Justice in joined cases C-659/13 and C-34/14 (OJ L 225, 19.8.2016, p. 52).
([18]) Commission Implementing Regulation (EU) 2016/1647 of 13 September 2016 re-imposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain footwear with uppers of leather originating in Vietnam and produced by Best Royal Co. Ltd, Lac Cuong Footwear Co. Ltd, Lac Ty Co. Ltd, Saoviet Joint Stock Company (Megastar Joint Stock Company), VMC Royal Co. Ltd, Freetrend Industrial Ltd and its related company Freetrend Industrial A (Vietnam) Co. Ltd, Fulgent Sun Footwear Co. Ltd, General Shoes Ltd, Golden Star Co. Ltd, Golden Top Company Co. Ltd, Kingmaker Footwear Co. Ltd, Tripos Enterprise Inc., Vietnam Shoe Majesty Co. Ltd, and implementing the judgment of the Court of Justice in joined cases C-659/13 and C-34/14 (OJ L 245, 14.9.2016, p. 16).
([19]) Commission Implementing Regulation (EU) 2016/1731 of 28 September 2016 re-imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and Vietnam and produced by General Footwear Ltd (China), Diamond Vietnam Co. Ltd and Ty Hung Footgearmex/Footwear Co. Ltd and implementing the judgment of the Court of Justice in joined cases C-659/13 and C-34/14 (OJ L 262, 29.9.2016, p. 4).
([20]) Implementing Regulation (EU) 2016/223 of 17 February 2016 establishing a procedure for assessing certain market economy treatment and individual treatment claims made by exporting producers from China and Vietnam, and implementing the judgment of the Court of Justice in Joined Cases C-659/13 and C-34/14 (OJ L 41, 18.2.2016, p. 3).
([21]) Commission Implementing Regulation (EU) 2016/2257 of 14 December 2016 re-imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and produced by Chengdu Sunshine Shoes Co. Ltd, Foshan Nanhai Shyang Yuu Footwear Ltd and Fujian Sunshine Footwear Co. Ltd and implementing the judgment of the Court of Justice in joined cases C-659/13 and C-34/14 (OJ L 340 I, 15.12.2016, p. 1)
([22]) Case C-458/98 P Industrie des Poudres Sphériques v Council [2000] I-8147, paragraphs 80 to 85.
([23]) In order to protect confidentiality, company names have been replaced by numbers. Companies 1 to 3 have been subject to Implementing Regulation (EU) 2016/1731 mentioned in recital (20), while Companies 4 to 6 have been subject to Implementing Regulation (EU) 2016/2257 mentioned in recital (24). The companies concerned by the current Regulation were attributed the consecutive numbers 7 to 25.
([24]) Wolverine Europe BV, Wolverine Europe Limited and Damco Netherlands BV, in their reply to the General Disclosure Document, referred to the comments submitted by FESI and the Footwear Coalition.

(25) Case T-192/08 Transnational Company Kazchrome and ENRC Marketing v Council, [2011] ECR II-07449, at paragraph 298. The judgment was upheld on appeal, see Case C-10/12 P Transnational Company Kazchrome and ENRC Marketing v Council, ECLI:EU:C:2013:865.

(26) Case T-255/01 Changzhou Hailong Electronics & Light Fixtures and Zhejiang Sunlight Group v Council, [2003] ECR II-04741, at paragraph 60.

(27) Notice of the expiry of certain anti-dumping measures (OJ C 82, 16.3.2011, p. 4).

(28) That time limit is now found in Articles 103(1) and 121(1)(a) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

(29) Case C-373/07 P Mebrom v Commission, [2009] ECR I-00054, at paragraphs 91-94.

(30) See Commission Staff Working Document, Compliance with the judgments of the Court of Justice of 2 February 2012 in Case C-249/10 P Brosmann and of 15 November 2012 in Case C-247/10P Zhejiang Aokang, accompanying the Proposal for a Council Implementing Regulation re-imposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and produced by Brosmann Footwear (HK) Ltd, Seasonable Footwear (Zhongshan) Ltd, Lung Pao Footwear (Guangzhou) Ltd, Risen Footwear (HK) Co. Ltd and Zhejiang Aokang Shoes Co. Ltd/* SWD/2014/046 final, at recitals 45-48.

(31) Case C-382/09 Stils Met, [2010] ECR I-09315, paragraphs 42-43. The TARIC, for instance, which is also used as a vehicle to ensure compliance with trade defence measures, finds its origins in Article 2 of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

(32) Case C-239/99 Nachi Europe, [2001] ECR I-01197, at paragraph 29.

(33) Regulation (EU) No 37/2014 of the European Parliament and of the Council of 15 January 2014 amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures (OJ L 18, 21.1.2014, p. 1).

(34) Case 270/84 Licata v ESC [1986] ECR 2305, paragraph 31 Case C-60/98 Butterfly Music v CEDEM [1999] ECR 1-3939, paragraph 24; Case 68/69 Bundesknappschaft v Brock [1970] ECR 171, paragraph 6; Case 1/73 Westzucker GmbH v Einfuhr und Vorratsstelle für Zucker [1973] 723, paragraph 5; Case 143/73 SOPAD v FORMA a.o. [1973] ECR 1433, paragraph 8; Case 96/77 Bauche [1978] ECR 383, paragraph 48; Case 125/77 Koninklij-keScholten-Honig NV v Floofdproduktschaap voor Akkerbouwprodukten [1978] ECR 1991, paragraph 37; Case 40/79 P v Commission [1981] ECR 361, paragraph 12; Case T-404/05 Greece v Commission [2008] ECR II-272, paragraph 77; C-334/07 P Commission v Freistaat Sachsen [2008] ECR 1-9465, paragraph 53.

(35) Case T-176/01 Ferrière Nord v Commission [2004] ECR II-3931, paragraph 139; C-334/07 P

(36) OJ C 166, 7.7.2005, p. 14.

(37) Case C-169/95 Spain v Commission [1997] ECR I-135, paragraph 51 to 54; Joined Cases T-116/01 and T-118/01 P&O European Ferries (Vizcaya) SA v Commission [2003] ECR II-2957, paragraph 205.

(38) Case C-34/92 GruSa Fleisch v Hauptzollamt Hamburg-Jonas [1993] ECR I-4147, paragraph 22. The same or similar wording can be found for example in Joined cases 212 to 217/80 Meridionale Industria Salumi α.δ. [1981] ECR 2735, paragraph 9 and 10; Case 21/81 Bout [1982] ECR 381, paragraph 13; Case T-42/96 Eyckeler & Malt v Commission [1998] ECR II-401, paragraphs 53 and 55 to 56; Case T-180/01 Euroagri v Commission [2004] ECR II-369, paragraphs 36 to 37.

(39) Case C-337/88 Società agricola fattoria alimentare (SAFA) [1990] ECR I-1, paragraph 13.

(40) By virtue of Commission Regulation (EC) No 1549/2006 of 17 October 2006 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 301, 31.10.2006, p. 1) this CN code is replaced on 1 January 2007 by CN codes ex 6403 51 05, ex 6403 59 05, ex 6403 91 05 and ex 6403 99 05.

(41) As defined in Commission Regulation (EC) No 1719/2005 of 27 October 2005 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 286, 28.10.2005, p. 1). The product coverage is determined in combining the product description in Article 1(1) and the product description of the corresponding CN codes taken together.

(42) See previous footnote.

(43) The impact resistance shall be measured according to European Norms EN345 or EN346.

(44) By virtue of Regulation (EC) No 1549/2006 this CN code is replaced on 1 January 2007 by CN codes ex 6403 51 05, ex 6403 59 05, ex 6403 91 05 and ex 6403 99 05.

ANNEX I

TARIC codes for footwear with uppers of leather or composition leather as defined in Article 1

(a) From 7 October 2006:

6403 30 00 39, 6403 30 00 89, 6403 51 11 90, 6403 51 15 90, 6403 51 19 90, 6403 51 91 90, 6403 51 95 90, 6403 51 99 90, 6403 59 11 90, 6403 59 31 90, 6403 59 35 90, 6403 59 39 90, 6403 59 91 90, 6403 59 95 90, 6403 59 99 90, 6403 91 11 99, 6403 91 13 99, 6403 91 16 99, 6403 91 18 99, 6403 91 91 99, 6403 91 93 99, 6403 91 96 99, 6403 91 98 99, 6403 99 11 90, 6403 99 31 90, 6403 99 33 90, 6403 99 36 90, 6403 99 38 90, 6403 99 91 99, 6403 99 93 29, 6403 99 93 99, 6403 99 96 29, 6403 99 96 99, 6403 99 98 29, 6403 99 98 99 and 6405 10 00 80

(b) From 1 January 2007:

6403 51 05 19, 6403 51 05 99, 6403 51 11 90, 6403 51 15 90, 6403 51 19 90, 6403 51 91 90, 6403 51 95 90, 6403 51 99 90, 6403 59 05 19, 6403 59 05 99, 6403 59 11 90, 6403 59 31 90, 6403 59 35 90, 6403 59 39 90, 6403 59 91 90, 6403 59 95 90, 6403 59 99 90, 6403 91 05 19, 6403 91 05 99, 6403 91 11 99, 6403 91 13 99, 6403 91 16 99, 6403 91 18 99, 6403 91 91 99, 6403 91 93 99, 6403 91 96 99, 6403 91 98 99, 6403 99 05 19, 6403 99 05 99, 6403 99 11 90, 6403 99 31 90, 6403 99 33 90, 6403 99 36 90, 6403 99 38 90, 6403 99 91 99, 6403 99 93 29, 6403 99 93 99, 6403 99 96 29, 6403 99 96 99, 6403 99 98 29, 6403 99 98 99 and 6405 10 00 80

(c) From 7 September 2007:

6403 51 05 15, 6403 51 05 18, 6403 51 05 95, 6403 51 05 98, 6403 51 11 91, 6403 51 11 99, 6403 51 15 91, 6403 51 15 99, 6403 51 19 91, 6403 51 19 99, 6403 51 91 91, 6403 51 91 99, 6403 51 95 91, 6403 51 95 99, 6403 51 99 91, 6403 51 99 99, 6403 59 05 15, 6403 59 05 18, 6403 59 05 95, 6403 59 05 98, 6403 59 11 91, 6403 59 11 99, 6403 59 31 91, 6403 59 31 99, 6403 59 35 91, 6403 59 35 99, 6403 59 39 91, 6403 59 39 99, 6403 59 91 91, 6403 59 91 99, 6403 59 95 91, 6403 59 95 99, 6403 59 99 91, 6403 59 99 99, 6403 91 05 15, 6403 91 05 18, 6403 91 05 95, 6403 91 05 98, 6403 91 11 95, 6403 91 11 98, 6403 91 13 95, 6403 91 13 98, 6403 91 16 95, 6403 91 16 98, 6403 91 18 95, 6403 91 18 98, 6403 91 91 95, 6403 91 91 98, 6403 91 93 95, 6403 91 93 98, 6403 91 96 95, 6403 91 96 98, 6403 91 98 95, 6403 91 98 98, 6403 99 05 15, 6403 99 05 18, 6403 99 05 95, 6403 99 05 98, 6403 99 11 91, 6403 99 11 99, 6403 99 31 91, 6403 99 31 99, 6403 99 33 91, 6403 99 33 99, 6403 99 36 91, 6403 99 36 99, 6403 99 38 91, 6403 99 38 99, 6403 99 91 95, 6403 99 91 98, 6403 99 93 25, 6403 99 93 28, 6403 99 93 95, 6403 99 93 98, 6403 99 96 25, 6403 99 96 28, 6403 99 96 95, 6403 99 96 98, 6403 99 98 25, 6403 99 98 28, 6403 99 98 95, 6403 99 98 98, 6405 10 00 81 and 6405 10 00 89

ANNEX II

List of exporting producers for which imports a definitive anti-dumping duty is imposed

Name of the exporting producer	TARIC additional code
An Loc Joint Stock Company (Vietnam)	A999
Chang Shin Vietnam Co. Ltd (Dong Nai — Vietnam) and its related company Changshin Inc. (Busan — South Korea)	A999
Chau Giang Company Limited (Haiphong City, Vietnam)	A999
Dongguan Texas Shoes Limited Co.	A999
Foshan Shunde Fong Ben Footwear Industrial Co. Ltd (Foshan City — China)	A999
Fujian Viscap Shoes Co. Ltd (Quanzhou — China)	A999
Lien Phat Company Ltd (Vietnam)	A999
Maystar Footwear Co. Ltd (Zhuhai — China) (related to Kingmaker)	A999
Min Yuan (Guangzhou — China) and related companies E-Light and Golden Chang	A999
Panyu Hsieh Da Rubber Co. Ltd (China)	A999
PanYu Leader Footwear Corporation (Guangzhou — China)	A999
Panyu Pegasus Footwear Co. Ltd (Guangzhou — China)	A999
Qingdao Changshin Shoes Company Limited (Qingdao — China) and its related company Changshin Inc. (Busan — South Korea)	A999
Qingdao Samho Shoes Co. Ltd (China) and related company Samho shoes Co. Ltd (South Korea)	A999
Qingdao Sewon Shoes Co. Ltd (Qingdao — China)	A999
Qingdao Tae Kwang Shoes Co. Ltd (China) and related company Tae Kwang Industrial Co. (Korea) (related to sampled Taekwang Vina)	A999
Samyang Vietnam Co. Ltd (Ho Chi Minh City — Vietnam)	A999
Vietnam Ching Luh Shoes Co. Ltd (Vietnam)	A999
Vinh Thong Producing-Trading-Service Co. Ltd (Ho Chi Minh — Vietnam)	A999

ANNEX III

List of companies for whom the examination is suspended pursuant to Article 3

ALAMODE

ALL PASS

ALLIED JET LIMITED

ALLIED JET LIMITED C/O SHENG RONG F

AMERICAN ZABIN INTL

AN THINH FOOTWEAR CO. LTD

AQUARIUS CORPORATION

ASIA FOOTWEAR

BCNY INTERNATIONAL INC.

BESCO ENTERPRISE

BEST CAPITAL

BRANCH OF EMPEREOR CO. LTD

BRENTWOOD FUJIAN INDUSTRY CO. LTD

BRENTWOOD TRADING COMPANY

BROWN PACIFIC TRADING LTD

BUFENG

BULLBOXER

C AND C ACCORD LTD

CALSON INVESTMENT LIMITED

CALZ.SAB SHOES S.R.L.

CARLSON GROUP

CD STAR

CHAOZHOU ZHONG TIAN CHENG

CHINA EVER

CORAL REEF ASIA PACIFIC LTD

CULT DESIGN

DHAI HOAN FOOTWEAR PRODUCTION JOINT STOCK COMPANY

DIAMOND GROUP INTERNATIONAL LTD/YONG ZHOU XIANG WAY SPORTS GOODS LTD

DONG GUAN CHANG AN XIAO BIAN SEVILLA

DONG GUAN HUA XIN SHOES LTD

DONGGUAN QIAOSHENG FOOTWEAR CO.

DONGGUAN TA YUE SHOES CO. LTD

DONGGUAN YONGXIN SHOES CO. LTD

EASTERN SHOES COLLECTION CO. LTD

EASY DENSE LIMITED

ENIGMA/MORE SHOES INC.

EVAIS CO. LTD

EVER CREDIT PACIFIC LTD

EVERGIANT

EVERGO ENTERPRISES LTD C/O THUNDER

FH SPORTS AGENCIES LTD

FIJIAN GUANZHOU FOREIGN TRADE CORP

FOSTER INVESTMENTS INC.

FREEMANSHOES CO. LTD

FU XIANG FOOTWEAR

FUJIAN JINMAIWANG SHOES & GARMENTS PRODUCTS CO. LTD

GERLI

GET SUCCESS LIMITED GLOBE DISTRIBUTING CO. LTD

GOLDEN STEPS FOOTWEAR LTD

GOODMILES

HA CHEN TRADE CORPORATION

HAI VINH TRADING COMP

HAIPHONG SHOLEGA

HANLIN (BVI) INT'L COMPNAY LTD C/O

HAPPY THOSE INTERNATIONAL LTD

HAWSHIN

HESHAN SHI HENGYU FOOTWEAR LTD

HIEP TRI CO. LTD

HISON VINA CO. LTD

HOLLY PACIFIC LTD

HUEY CHUEN SHOES GROUP/FUH CHUEN CO. LTD

HUI DONG FUL SHING SHOES CO. LTD

HUNEX

HUNG TIN CO. LTD

IFR

INTER — PACIFIC CORP.

IPC HONG KONG BRANCH LTD

J.C. TRADING LIMITED

JASON FOOTWEAR

JIA HSIN CO. LTD

JIA HUAN

JINJIANG YIREN SHOES CO. LTD

JOU DA

JUBILANT TEAM INTERNATIONAL LTD

JWS INTERNATIONAL CORP

KAI YANG VIETNAM CO. LTD

KAIYANG VIETNAM CO. LTD

KIM DUCK TRADING PRODUCTION

LEGEND FOOTWEAR LTD ALSO SPELLED AS LEGENT FOOTWEAR LTD

LEIF J. OSTBERG, INC.

LU XIN JIA

MAI HUONG CO. LTD

MARIO MICHELI

MASTERBRANDS

MAYFLOWER

MING WELL INT'L CORP.

MIRI FOOTWEAR INTERNATIONAL, INC.

MIX MODE

MORGAN INT'L CO. LTD C/O HWASHUN

NEW ALLIED

NEW FU XIANG

NORTHSTAR SOURCING GROUP HK LTD

O.T. ENTERPRISE CO.

O'LEAR IND VIETNAM CO. LTD ALSO SPELLED AS O'LEER IND. VIETNAM CO. LTD

O'LEER IND. VIETNAM CO. LTD

ONTARIO DC

OSCO INDUSTRIES LTD

OSCO VIETNAM COMPANY LTD

PACIFIC BEST CO. LTD

PERFECT GLOBAL ENTERPRISES LTD

PETER TRUONG STYLE, INC.

PETRONA TRADING CORP

PHUOC BINH COMPANY LTD

PHY LAM INDUSTRY TRADING INVESTMENT CORP

POP EUROPE

POU CHEN P/A POU SUNG VIETNAM CO. LTD

POU CHEN CORP P/A IDEA

POU CHEN CORP P/A YUE YUEN INDUSTRIAL ESTATE

PRO DRAGON INC.

PUIBRIGHT INVESTMENTS LIMITED T/A

PUTIAN LIFENG FOOTWEAR CO. LTD

PUTIAN NEWPOWER INTERNATIONAL T

PUTIAN XIESHENG FOOTWEAR CO

QUAN TAK

RED INDIAN

RICK ASIA (HONG KONG) LTD

RIGHT SOURCE INVESTMENT LIMITED/VINH LONG FOOTWEAR CO. LTD

RIGHT SOURCE INVESTMENTS LTD

ROBINSON TRADING LTD

RUBBER INDUSTRY CORP. RUBIMEX

SENG HONG SHOES (DONG GUAN) CO. LTD

SEVILLE FOOTWEAR

SHANGHAI XINPINGSHUN TRADE CO. LTD

SHENG RONG

SHENZHEN GUANGYUFA INDUSTRIAL CO. LTD

SHENZHEN HENGGTENGFA ELECTRONI

SHINING YWANG CORP

SHISHI

SHISHI LONGZHENG IMPORT AND EXPORT TRADE CO. LTD

SHOE PREMIER

SIMONATO

SINCERE TRADING CO. LTD

SINOWEST

SLIPPER HUT & CO

SUN POWER INTERNATIONAL CO. LTD

SUNKUAN TAICHUNG OFFICE/JIA HSIN CO. LTD

SUNNY

SUNNY FAITH CO. LTD

SUNNY STATE ENTERPRISES LTD

TBS

TENDENZA ENTERPRISE LTD

TEXAS SHOE FOOTWEAR CORP

THAI BINH HOLDING & SHOES MANUFAC

THANH LE GENERAL IMPORT-EXPORT TRADING COMPANY

THUONG TANG SHOES CO. LTD

TIAN LIH

TONG SHING SHOES COMPANY

TOP ADVANCED ENTERPRISE LIMITED

TRANS ASIA SHOES CO. LTD

TRIPLE WIN

TRULLION INC.

TRUONG SON TRADE AND SERVICE CO. LTD

TUNLIT INTERNATIONAL LTD- SIMPLE FOOTWEAR

UYANG

VIETNAM XIN CHANG SHOES CO.

VINH LONG FOOTWEAR CO. LTD

WINCAP INDUSTRIAL LTD

WUZHOU PARTNER LEATHER CO. LTD

XIAMEN DUNCAN — AMOS SPORTSWEAR CO. LTD

XIAMEN LUXINJIA IMPORT & EXPORT CO.

XIAMEN OCEAN IMP&EXP

XIAMEN UNIBEST IMPORT AND EXPORT CO. LTD

YANGZHOU BAOYI SHOES

YDRA SHOES

YONGMING FOOTWEAR FACTORY

ZHONG SHAN POU SHEN FOOTWEAR COMPANY LTD

ZIGI NEW YORK GROUP

ANNEX IV

List of exporting producers notified to the Commission already assessed individually or as part of a company group selected in the sample of exporting producers in the original investigation

APACHE FOOTWEAR AND APACHE II FOOTWEAR

FOSHAN CITY NANHAI GOLDEN STEP INDUSTRIAL CO. LTD

GROWTH-LINK TRADING COMPANY LIMITED

JOINT STOCK COMPANY 32

KAI NAN JOINT VENTURE CO. LTD

NIKE (SUZHOU) SPORTS CO. LTD

POU CHEN/POU CHEN VIETNAM ENTERPRISE LTD

POU CHEN CORP P/A POU CHEN VIETNAM ENTERPRISE, LTD

POU CHEN CORPORATION/DONGGUAN YUE YUEN MFR. CO.

POU CHEN CORPORATION/POU YUEN VIETNAM ENTERPRISES LTD

POU CHEN CORPORATION/POUYUEN VIETNAM COMPANY LIMITED

POU CHEN CORPORATION/PT. POU CHEN INDONESIA

POU YUEN/POU YUEN VIETNAM COMPANY LTD/POU YUEN VIETNAM ENTERPRISE LTD

SHOES MAJESTY TRADING COMPANY LTD (VIETNAM)

SKY HIGH TRADING LTD

SUN KUAN (BVI) ENTERPRISES/SUN KUAN J V CO.

SUN SANG KONG YUEN SHOES FACTORY (HUY YANG) CO. LTD

SUNKUAN TAICHUNG OFFICE/SUN KUAN J.V. CO.

TAE KWANG INDUSTRIAL CO. LTD P/A TAE KWANG VINA INDUSTRIAL CO.

YUE GROUP/YUE YUEN

ANNEX V

List of exporting producers notified to the Commission already assessed either individually or as part of a company group in the context of Implementing Decision 2014/149/EU or in Implementing Regulations (EU) 2016/1395, (EU) 2016/1647, (EU) 2016/1731 and (EU) 2016/2257 respectively

Name of the exporting producer	Regulation where it was assessed
BROOKDALE INVESTMENTS LTD	Implementing Regulation (EU) 2016/1395
WEI HUA SHOE COMPANY LTD	Implementing Regulation (EU) 2016/1395
DIAMOND GROUP INTERNATIONAL LTD/TAI-WAY SPORTS LTD	Implementing Regulation (EU) 2016/1395
DONGGUAN STELLA FOOTWEAR CO. LTD	Implementing Regulation (EU) 2016/1395
HK WEI HUA KIMO	Implementing Regulation (EU) 2016/1395
HO HSING	Implementing Regulation (EU) 2016/1395
HOPEWAY GROUP LTD	Implementing Regulation (EU) 2016/1395
FOSHAN CITY NANHAI QUNRUI FOOTWEAR CO. LTD	Implementing Regulation (EU) 2016/1395
QUN RUI FOOTWEAR	Implementing Regulation (EU) 2016/1395
STELLA INTERNATIONAL LTD	Implementing Regulation (EU) 2016/1395
FENG TAY ENTERPRISES CO. LTD P/A DONA PACIFIC (VIETNAM) CO. LTD	Implementing Regulation (EU) 2016/1647
FENG TAY ENTERPRISES CO. LTD P/A LIFENG FOOTWEAR CORPORATION	Implementing Regulation (EU) 2016/1647
FENG TAY ENTERPRISES CO. LTD P/A VIETNAM DONA STANDARD	Implementing Regulation (EU) 2016/1647
FENG TAY ENTERPRISES CO. LTD P/A DONA VICTOR FOOTWEAR CO. LTD	Implementing Regulation (EU) 2016/1647
FENG TAY ENTERPRISES CO. LTD P/A VIETNAM DONA ORIENT CO. LTD	Implementing Regulation (EU) 2016/1647
FULGENT SUNSHINE FOOTWEAR CO. LTD	Implementing Regulation (EU) 2016/1647
GRAND SMARTLY GROUP LTD P/A FREETREND INDUSTRIAL CO. LTD	Implementing Regulation (EU) 2016/1647
KINGFIELD INTERNATIONAL LTD	Implementing Regulations (EU) 2016/1647 and (EU) 2016/1731
VIETNAM SHOE MAJESTER CO. LTD	Implementing Regulation (EU) 2016/1647
GENFORT SHOES LTD	Implementing Regulations (EU) 2016/1647 and (EU) 2016/1731
FOOTGEARMEX FOOTWEAR CO. LTD	Implementing Regulation (EU) 2016/1731
DIAMOND GROUP INTERNATIONAL LTD/DIAMOND VIETNAM CO. LTD — P.T. HORN MING INDONESIA	Implementing Regulation (EU) 2016/1731

Name of the exporting producer	Regulation where it was assessed
DIAMOND VIETNAM CO. LTD	Implementing Regulation (EU) 2016/1731
FOOTGEARMEX FOOTWEAR CO. LTD	Implementing Regulation (EU) 2016/1731
CAPITAL CONCORD ENTERPRISES LTD P/A FUJIAN SUNSHINE FOOTWEAR CO. LTD SUNNY FOOTWEAR CO. LTD	Implementing Regulation (EU) 2016/2257
BROSMANN FOOTWEAR (HK) LTD	Implementing Decision 2014/149/EU
LUNG PAO FOOTWEAR (GUANGZHOU) LTD	Implementing Decision 2014/149/EU
NOVI FOOTWEAR	Implementing Decision 2014/149/EU
RISEN FOOTWEAR (HK) CO. LTD	Implementing Decision 2014/149/EU
SEASONABLE FOOTWEAR (ZHONGSHAN) LTD	Implementing Decision 2014/149/EU
WENZHOU TAIMA SHOES CO. LTD	Implementing Decision 2014/149/EU
ZHEJIANG AOKANG SHOES CO. LTD	Implementing Decision 2014/149/EU

ANNEX VI

List of companies notified to the Commission that will be assessed in an upcoming implementation exercise either individually or as part of a company group

DAH LIH PUH

EVERVAN GROUP P/A EVA OVERSEAS INTERNATIONAL, LTD

EVERVAN GROUP P/A JIANGXI GUANGYOU FOOTWEAR CO.

LONG SON JOINT STOCK COMPANY

SHING TAK IND. CO. LTD