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⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

REGULATIONS

IMPLEMENTING REGULATION OF THE COUNCIL (EU) No 157/2010

of 22 February 2010

imposing a definitive anti-dumping duty on imports of certain ring binder mechanisms originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 384/96

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, repealing Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽²⁾ (the 'basic Regulation') and in particular Article 11(2) of Regulation (EC) No 1225/2009,

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

Whereas:

A. PROCEDURE

1. Measures in force

- (1) By Regulation (EC) No 119/97 ⁽³⁾, the Council imposed definitive anti-dumping duties ranging from 32,5 % to 39,4 % on imports of certain ring binder mechanisms ('RBMs') originating in the People's Republic of China (PRC). These rates of duty were applicable to RBMs other than those with 17 or 23 rings, while RBMs with 17 and 23 rings were subject to a duty equal to the difference between the minimum import price (MIP) of EUR 325 per 1 000 pieces and the free-at-Union-frontier not cleared through customs price whenever the latter was lower than the MIP.

- (2) By Regulation (EC) No 2100/2000 ⁽⁴⁾, the Council amended and increased the above mentioned duties for certain RBMs other than those with 17 or 23 rings, following a review investigation pursuant to Article 12 of the basic Regulation. The amended duties ranged from 51,2 % to 78,8 %.

- (3) Following a request by two Union producers an expiry review pursuant to Article 11(2) of the basic Regulation was initiated in January 2002 ⁽⁵⁾ and, by Regulation (EC) No 2074/2004 ⁽⁶⁾, the Council extended the existing anti-dumping measures for four years.

- (4) Following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Regulation (EC) No 1208/2004 ⁽⁷⁾, the Council extended the definitive anti-dumping measures to imports of certain RBMs consigned from Vietnam, whether declared as originating in Vietnam or not.

- (5) Following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Regulation (EC) No 33/2006 ⁽⁸⁾, the Council extended the definitive anti-dumping measures to imports of certain RBMs consigned from Lao People's Democratic Republic, whether declared as originating in Lao People's Democratic Republic or not.

- (6) Finally, in August 2008, by Regulation (EC) No 818/2008 ⁽⁹⁾, the Council extended the scope of the measures to certain slightly modified RBMs since it was established that measures were circumvented.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ L 56, 6.3.1996, p. 1.

⁽³⁾ OJ L 22, 24.1.1997, p. 1.

⁽⁴⁾ OJ L 250, 5.10.2000, p. 1.

⁽⁵⁾ OJ C 21, 24.1.2002, p. 25.

⁽⁶⁾ OJ L 359, 4.12.2004, p. 11.

⁽⁷⁾ OJ L 232, 1.7.2004, p. 1.

⁽⁸⁾ OJ L 7, 12.1.2006, p. 1.

⁽⁹⁾ OJ L 221, 19.8.2008, p. 1.

2. Request for a review

- (7) Following the publication of a notice of impending expiry of the anti-dumping measures in force on imports of certain RBMs originating in the PRC ⁽¹⁾, the Commission received, on 4 September 2008, a request to review these measures pursuant to Article 11(2) of the basic Regulation.
- (8) The request was lodged by the Union producer Ring Alliance Ringbuchtechnik GmbH ('the applicant') representing a major proportion, in this case more than 50 %, of the total Union production of ring binder mechanisms. The request was based on the grounds that the expiry of measures would be likely to result in a continuation or recurrence of dumping and injury to the Union industry.
- (9) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a review pursuant to Article 11(2) of the basic Regulation, the Commission initiated a review ⁽²⁾.

3. Investigation

(a) Procedure

- (10) The Commission officially advised the exporting producers, importers and users known to be concerned, the representatives of the exporting country, the applicant Union producer and the other known Union producer of the initiation of the expiry review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.
- (11) All parties who so requested within the above time limit and who demonstrated that there were particular reasons why they should be heard were granted the opportunity to be heard.
- (12) Questionnaires were sent to all the parties that were officially advised of the initiation of the review and to those who requested a questionnaire within the time limit set out in the notice of initiation. In addition, one producer in Thailand (the envisaged analogue country) was contacted and received a questionnaire.

- (13) Replies to the questionnaires were received from one exporting producer in the PRC who did not export RBMs to the European Union ('EU') and its related company in Thailand, the applicant Union producer, three unrelated importers and one user related to the complainant. The other Union producer did not cooperate in this investigation and one unrelated importer only submitted comments.
- (14) All parties concerned were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties. They were granted a period within which to make representations subsequent to disclosure. The comments of the parties were considered and, where appropriate, the findings have been modified accordingly.

(b) Interested parties and verification visits

- (15) The Commission's services sought and verified all the information deemed necessary for the purpose of determination of the likelihood of a continuation or recurrence of dumping and injury and of the EU interest. Verification visits were carried out at the premises of the following companies:

(i) applicant Union producer

— Ring Alliance Ringbuchtechnik GmbH, Vienna, Austria;

(ii) producer in the exporting country

— Wah Hing Stationery Manufactory Ltd ('WHS'), Guangzhou and its related company Wah Hing Stationery Manufactory Ltd (WHS) in Hong Kong, PRC;

(iii) unrelated importer in the EU

— Giardini S.r.l., Settimo Milanese, Italy.

(c) Investigation period

- (16) The investigation of continuation or recurrence of dumping covered the period from 1 October 2007 to 30 September 2008 ('review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2005 up to the end of the RIP ('period considered').

⁽¹⁾ OJ C 146, 12.6.2008, p. 33.

⁽²⁾ OJ C 310, 5.12.2008, p. 15.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (17) The product concerned is the same as defined in Council Regulation (EC) No 2074/2004 i.e. certain ring binder mechanisms consisting of two steel sheets or wires with at least four half-rings made of steel wire fixed on them and which are kept together by a steel cover. They can be opened either by pulling the half rings or with a small steel trigger mechanism fixed to the ring binder mechanism. The rings can have different shapes, the most common ones being round and D-shaped ('the product concerned'). RBMs are currently falling within CN code ex 8305 10 00. Lever-arch mechanisms ('LAM') classified within the same CN code are not included in the scope of the product concerned.
- (18) RBMs are used to make paper, cardboard and plastic-coated office files, presentation and other bound files.
- (19) A large number of different types of RBMs were sold in the EU during the RIP. The differences between these types were determined by the width of the base, the type of mechanism, the number of rings, the opening system, the nominal paper holding capacity, the ring diameter, the shape of the rings, the length and the ring spacing. Given the fact that all types have the same basic physical and technical characteristics and, within certain ranges, are interchangeable, it was established that all RBMs constitute one single product for the purpose of the present proceeding.

2. Like product

- (20) It was also found that there was no difference in the basic physical and technical characteristics and uses between RBMs produced in the PRC and RBMs produced by the Union industry and sold on the EU market.
- (21) It was therefore concluded that RBMs originating in the PRC and RBMs produced and sold by the Union industry on the EU market were all like products within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

- (22) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping.

1. Preliminary remarks

- (23) No Chinese producer exporting RBMs to the EU cooperated with the investigation. Of the four Chinese companies named in the request, only one cooperated, as well as its related company based in Thailand. The three other exporting companies did not reply to the questionnaire. The sole Chinese cooperating producer did not export the product concerned to the EU but performed exports of the product concerned to other third country markets. In the absence of cooperation of any Chinese exporting producer of the RBMs to the EU during the RIP, findings with regard to dumping had to be based on information available to the Commission from other sources in accordance with the provisions of Article 18 of the basic Regulation. In this case it was considered that the most reasonable and appropriate information was the information given by Eurostat in relation to exports. Where practical and with due regard to the time limits of the investigation, this information was checked by reference to information from the sole Chinese producer that cooperated with the present investigation but did not export RBMs to the EU and to the Chinese export statistics. Nevertheless, account taken of the fact that no company specific data with respect to quantities and volumes exists from the Chinese exporting producers the Eurostat statistics are still considered the only available proxy of the Chinese exports to the EU, even if the absolute level of prices given by Eurostat seems quite high as compared to import prices reported by Chinese export statistics and Eurostat figures given for other third countries.

2. Continuation of dumping

(a) Analogue country

- (24) Since the PRC is an economy in transition and in accordance with the provisions of Article 2(7)(a) of the basic Regulation, normal value had to be determined on the basis of the price or constructed normal value obtained in an appropriate market economy third country (the 'analogue country'), or the price from the analogue country to other countries, including the Union, or where those are not possible on any other reasonable basis, including the price actually paid or payable in the Union for the like product, duly adjusted if necessary to include a reasonable profit margin.
- (25) In the previous investigation, India was chosen as analogue country. In this respect it is noted that the Commission informed the sole Indian producer that cooperated in the previous investigation on the initiation of the current proceeding but the relevant party refused to cooperate. In the expiry review request, Thailand was suggested as analogue country for the purpose of establishing normal value. This choice was contested by certain parties involved with the proceeding who claimed that India should have been used as an appropriate analogue country.

- (26) With respect to Thailand one Thai producer agreed to cooperate. Therefore the Commission examined the possibility of using data obtained from Thailand for the purpose of establishing normal value for PRC. With this regard it should be noted that there were no domestic sales of the product concerned in Thailand. Therefore, any determination of normal value in Thailand would have to be made on the basis of Article 2(6)(c).
- (27) Moreover, the comparison of the level of the average export price of the product concerned when exported from Thailand and the average export price of the product concerned from PRC as provided by Eurostat showed that Chinese prices were higher than Thai prices. In this regard it should be noted that there is a significant range of different product types that are covered by the product concerned and prices can vary depending on the product type. Due to absence of cooperation by the PRC exporting producers, the exact composition of their export sales to the EU could not be established and compared to the product mix of the Thai exporting producers. Consequently, since there were no indications that the significant difference in export prices can be attributed to any other factor, it was concluded that there is a difference in product mix of RBMs exported to the EU by the Chinese and the Thai exporting producers. In effect, based on the differences in export prices for Thailand and PRC to the European Union, it was concluded, using the best data available, that the exports from PRC cover rather more expensive, elaborated product types and that also for this reason it would not be appropriate to use data from Thailand for establishing normal value for PRC.
- (28) Furthermore, the Thai company was related to the sole cooperating Chinese RBMs producer. The Commission investigated whether the fact that the two companies were related could have an impact on the determination of normal value. In this respect it is recalled that previous investigations (namely two anti-circumvention investigations) have revealed that the Thai company was established as a business response of a Chinese producer to the imposition of anti-dumping measures to the product concerned. The same conclusion is confirmed by the present investigation as explained in detail under recital 38. Account taken of this well established link between the Chinese and the Thai producer it was considered appropriate not to use the information submitted by the sole company that cooperated in the proposed analogue country. Therefore, account taken of all the above factors and in accordance with Article 2(7)(a) of the basic Regulation, Thailand was not considered to be an appropriate analogue country for establishing normal value.
- (29) Account taken of the facts described above with respect to Thailand, the lack of any cooperation from the previously used analogue country (India) as well as the fact that no Chinese company that exported RBMs to the EU cooperated with the investigation, it was considered appropriate to base the normal value on any other reasonable basis, i.e. the prices actually paid or payable in the Union for the like product.
- (b) *Normal value*
- (30) In view of the facts described above, it was decided to base the determination for normal value on the Union industry prices in line with the provisions of Article 2(7)(a) of the basic Regulation, i.e. on the basis of prices actually paid or payable in the Union for the like product. Normal value was thus calculated on the basis of data verified at the premises of the applicant Union producer. The domestic sales of this producer of the like product were found to be representative compared to the product concerned exported to the EU from PRC. As the sales prices of the Union industry were loss-making, they had to be duly adjusted to include a reasonable profit margin, as provided for under Article 2(7)(a) of the basic Regulation. In this respect a reasonable profit margin of 5 % was used which is considered reasonable for this type of business activities.
- (c) *Export price*
- (31) In accordance with Article 18 of the basic Regulation, and in the absence of cooperation from Chinese exporting producers, the export price was calculated by using Eurostat data.
- (d) *Comparison*
- (32) The comparison between normal value and export price was made on ex-factory basis. For the purpose of ensuring fair comparison between normal value and export price, due adjustments were made for differences affecting prices and price comparison in accordance with Article 2(10) of the basic Regulation. Adjustments were made where necessary, for differences in transport, insurance and other transport related costs.
- (e) *Dumping margin*
- (33) Account taken of the above and of the absence of any other reliable information for China country-wide dumping margin, based on a weighted average-to-average comparison and expressed as a percentage of the CIF EU frontier price duty unpaid, was calculated and found to be 20,7 %.

(f) *Conclusion on dumping*

- (34) The investigation has established the existence of dumping during the RIP. This conclusion was based (i) on the one hand on export prices as established from Eurostat for the reasons explained under recital 23; and (ii) on the other hand on normal value determined on the basis of Union industry prices in line with the provisions of Article 2(7)(a) of the basic Regulation for the reasons explained under recitals 24 to 29.

3. Recurrence of dumping

- (35) Further to the analysis of the existence of dumping during the RIP, the likelihood of the recurrence of dumping was investigated. In the absence of cooperation from Chinese exporting producers except for one company that had exports only to non-EU countries, and given the lack of publicly available information, the conclusions below rely mainly on the facts available in accordance with Article 18 of the basic Regulation, namely Eurostat data, data from the sole cooperating company, Chinese statistics and the review request.

- (36) In this respect, the following elements were analysed: (a) the spare capacity and behaviour in terms of volumes and prices of the exporting Chinese producers; and (b) the EU market attractiveness for Chinese exporters in terms of prices and volume.

(a) *Spare capacity and behaviour of the exporting Chinese producers*

- (37) It is worth recalling that, in the absence of cooperation from exporting producers other than WHS, no information concerning production in the PRC, spare production capacity and sales on the Chinese market was available, except for the cooperating producer.

- (38) The sole Chinese cooperating producer had reduced its own production capacity from 2005 to the RIP significantly (the precise figure cannot be disclosed for reasons of confidentiality). However, this Chinese producer is able to expand again its production capacity. Indeed this reduced capacity production could be restored without delay and effort given that the producer still owns an empty industrial plant close to the operational one. In that site the Chinese producer could re-establish in a short time period, i.e. within six months, a production line for RBMs using existing

equipment that currently cater other production needs but could be readapted in order to increase its overall RBMs production. In this respect it should be noted also that this Chinese producer has no domestic sales and no obvious plans to start domestic sales in the near future. Consequently, this producer might quickly increase production and direct it towards any export markets (including the EU market to which it does not currently sell) if measures are allowed to expire. The company also confirmed that if the anti-dumping measures were repealed, they would close down the production site of their related Thai company and would repatriate all the production of RBMs to China. The cooperating company did not maintain a high level of investments something which is easily explained account taken of the existence of its related Thai company, the low level of investment generally needed for this type of manufacturing activity and of the short period of time needed to shift machinery into the production of RBMs.

- (39) With respect to the non-cooperating Chinese producers, it is concluded that there are still spare capacities in the PRC. This is based on the fact that overall Chinese exports have decreased and there is no information showing that capacity in the PRC has declined. Furthermore, it is noted that there is a short lead time in the adaptability of machinery and overall versatility of equipments in the RBMs industry so that capacities could be restored easily in order to follow developments in the RBMs market.

- (40) With regard to exports sales to third countries of the sole Chinese cooperating producer it only provided partial information suggesting that its sales increased by some 10 % from 2006 to the RIP. During the same period its average export price to third countries increased by 0,7 %.

- (41) With regard to the development of the overall Chinese exports to other countries the available Chinese statistics were consulted in order to establish volumes and prices of Chinese exports. These data confirms that there was a significant decrease in RBMs from China in the period between 2004 and the RIP. According to the Chinese statistics, the volume of RBMs exported in 2004 was 198 million pieces, which decreased to 89 million pieces during the RIP. The average selling price on the other hand, decreased sharply during the period 2004 to 2007, only to reach levels slightly less than the 2004 during the RIP. The fact that volumes of Chinese exports of RBMs represented during the RIP only 45 % of their

2004 level while the average export price was during the RIP 7 % lower than its 2004 level confirms that there is a strong incentive to all Chinese producers, either cooperating or not with the investigation, to return to their previously achieved export performances account taken of their available capacities and the tendency observed in the last years for an increase in the export prices. In these circumstances, it is reasonable to believe that if the anti-dumping measures were allowed to expire, the EU market would become a very attractive target for all Chinese producers, who would then aim to export to the EU market in considerable quantities.

(b) *Attractiveness of the EU market*

- (42) Before the imposition of anti-dumping duties, the EU was for PRC the second most significant export market for RBMs in terms of overall volume. PRC's market share has constantly decreased after anti-dumping measures were imposed, extended following two circumvention investigations and reviewed in 2008 to enlarge their scope. Market shares remained substantially stable during the period considered and only slightly decreased to 3,2 % (- 0,4 %) during the RIP. However, the size of the EU market, second only to the USA, and the consequent demand makes the EU an important target when comparing it with other Chinese exporting markets. The past Chinese presence in the EU market and the importance of the market can be considered as a clear indication that Chinese producers would in the future attempt to regain market shares in the EU.
- (43) Furthermore, there are clear indications that parties in China follow closely the present investigation and consider the possibility to start exporting to the EU. In this respect it is noted that following the initiation of the proceeding the Commission received queries from a Chinese producer, not mentioned in the request for the expiry review, stating that the company was established in 2005, that it produces RBMs and plans to export RBMs to the EU as from 2009. This company considered initially the possibility to cooperate with the proceeding but did not submit the relevant questionnaire reply. The above confirms that the EU remains for Chinese producers an attractive market even with the existing anti-dumping measures and thus if measures are allowed to expire their incentive to start, increase or recommence exporting to the EU would be significantly reinforced.
- (44) The historic importance and attractiveness of the EU as a RBMs market is also confirmed by the persistent past attempts to circumvent or absorb the current anti-dumping measures. Indeed, since anti-dumping measures were imposed against PRC, there have been continuous attempts to circumvent and absorb them by Chinese exporters in order to access the EU market. It is

recalled that present measures have been increased in 2000 as a result of an anti-absorption procedure, extended to Vietnam and Laos in 2004 and 2006 respectively as a result of the existence of circumvention practices and amended in 2008 with respect to the definition of product concerned also as a result of circumvention practices by means of slight product modification.

- (45) As to prices, according to the Chinese statistics, the average Chinese export price to third country markets is higher than the average Chinese export price to the EU but still significantly below the average price of Indian and Thai prices on the EU market, i.e. their potential direct competitors. The relevant Chinese export data suggests that Chinese producers have an already well established position in most of the other markets contrary to their current EU performance. It is thus clear that the EU market would be a financially attractive option for the Chinese exporters because they could sell at higher prices in the EU without jeopardising their sales to the rest of the world and still undercut their main competitors in the EU by selling at dumped prices.

(c) *Trade defence measures applied by third countries*

- (46) No third countries apply trade defence measures to imports of RBMs originating in the PRC.

4. Conclusion

- (47) The investigation has shown that both the cooperating exporting producer and most likely also the other Chinese exporting producers have considerable spare capacity in view of the significant decrease in their exports from 2004 to the RIP. It has also shown that there is a constant interest by Chinese parties to enter in the EU market. Moreover, the sole cooperating producer could easily shift its production capacity from Thailand back to China if anti-dumping measures were repealed.
- (48) In view of the spare capacities of the Chinese producers and the versatility of their machinery and equipment it is likely that imports from the PRC to the EU market could resume in significant quantities if the anti-dumping measures were allowed to expire. The EU market is currently the only one in the world where anti-dumping measures exist and the facts established suggest that Chinese exporters would certainly aim to regain at the soonest possible time their past market shares by taking advantage of the necessary capacity adaptability. The above conclusion is strengthened by the fact that they could afford to sell at prices that are lower than those of all their competitors in the EU market and have already demonstrated that they did so in the RIP.

(49) Based on all these findings and events, it is likely that in the event of resumption of exports by Chinese exporters to the EU, these exports would be priced below the normal value. Consequently, it is determined that, should the existing measures be repealed, the dumping from China will be likely to recur.

D. DEFINITION OF THE UNION INDUSTRY

(50) During the RIP RBMs were manufactured in the EU by the following producers:

— Ring Alliance Ringbuchtechnik GmbH, Vienna, Austria,

— Industria Meccanica Lombarda srl, Offanengo, Italy.

(51) The first producer is the applicant and cooperated in the investigation. The other (smaller) Union producer did not cooperate. The investigation has established that the applicant represented more than 50 % of the total Union production of RBMs in the RIP. It is therefore considered that this producer represents the Union industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation. It is hereinafter referred to as the 'Union industry'. The applicant and its subsidiaries is not related to the Chinese exporting producers.

(52) It should be noted that in the past, the Union industry was originally composed of two different producers (Koloman Handler — Austria and Robert Krause — Germany) that went bankrupt and taken over by an Austrian group. The companies were subject to a significant restructuring and the current structure 'Ring Alliance Ringbuchtechnik GmbH' was created in 2003, i.e. about two years before the period considered. The head offices are located in Austria while production takes place in Hungary.

E. SITUATION ON THE EU MARKET

1. Consumption on the EU market

(53) The questionnaire replies of the cooperating Union producer were used to establish the Union industry's sales of RBMs on the EU market. Other information available was also used to calculate the sales of the Union producer not included in the definition of the Union industry.

(54) Data concerning import volumes were obtained from Eurostat statistics, with the exception of imports from Thailand which were obtained from replies to questionnaire received in the framework of the parallel anti-dumping proceeding concerning that country.

(55) On this basis, the EU consumption of RBMs declined by 4 % over the period considered from around 170-180 million pieces in 2005 to 165-175 million pieces in the RIP ⁽¹⁾.

2. Imports from the country concerned

(a) Import volume and market share

	2005	2006	2007	RIP
Import volume	100	49	41	43
Market share (%)	7,0 %	3,8 %	3,2 %	3,2 %

(56) In order to establish total import volumes of the product concerned from the PRC, it was considered appropriate to include imports from those countries to which the current anti-dumping measures had been extended pursuant to Article 13(3) of the basic Regulation, i.e. Vietnam and Laos (see recitals 4 and 5 above). Indeed, it was considered that imports from these countries were in fact products originating in the PRC. On this basis, it was established that total imported volume of RBMs from the PRC decreased by more than 50 % during the period considered. The market share decreased to the same extent during this period. It should, however, be noted those figures include consigned imports from Laos only in 2005, and they represented half of the imports in that year. Note that the anti-circumvention investigation concerning imports of RBMs consigned from Laos was opened in April 2005.

(57) The PRC market share dropped from 7,0 % to 3,8 % in 2006 and has remained stable since then (around 3 %). It is noted that, in the framework of the previous expiry review, the PRC's market shares decreased from 14,8 % in 1998 to 1,9 % in 2001, i.e. the market share of Chinese RBMs is now higher than at the end of the period examined for the previous expiry review.

(b) Price of the imports of the product concerned/undercutting

(58) Out of the three cooperating importers only one imported RBMs from the PRC during the RIP. These imports were very small as compared to overall imports from PRC and consisted of mechanisms with 17 and 23 rings subject to a minimum import price. These could therefore not have been used as a representative basis. According to Eurostat statistics, import prices of RBMs originating in the PRC decreased by 5 % during the period considered and Chinese prices undercut the Union industry's prices by around 10 % (not taking into account the anti-dumping duties). The absolute level of prices given by Eurostat, however, seems quite high as

⁽¹⁾ Only ranges are given in order to protect confidentiality of sole Complainant.

compared to import prices reported by Chinese export statistics and Eurostat figures given for other third countries. As pointed out above, it is likely that, should measures be repealed, Chinese export prices would have to align to their foreign competitors (Thailand, India) and on that basis the undercutting rate would be much more significant.

(c) Imports from other third countries

	2005	2006	2007	RIP
India	52,9 %	48,3 %	44,9 %	43,3 %
Thailand	11,5 %	12,2 %	7,9 %	13,0 %
Hong Kong	0,2 %	0,0 %	5,1 %	4,9 %
Others	1,2 %	2,7 %	4,4 %	1,7 %

- (59) As to imports from other third countries, imports of RBMs originating in India are decreasing while imports of RBMs originating in Thailand have slightly increased during the RIP when they are higher as compared to previous years. As well as other countries, Hong Kong is exporting the RBMs to the EU but no representations were made in this respect and no further information is available.

3. Economic situation of the Union industry ⁽¹⁾

(a) Production, production capacity and capacity utilisation

	2005	2006	2007	RIP
Production	100	102	118	119
Production capacity	100	91	100	103
Capacity utilisation (%)	59 %	66 %	70 %	68 %

- (60) During the period considered the production increased by almost 20 % while capacity remained relatively stable. As a result capacity utilisation followed a trend similar to production, increasing by 9 percentage points.
- (61) The level of the capacity utilisation during the RIP was however below the level it reached in 2001, i.e. the investigation period of the previous expiry review. The capacity utilisation rate then was between 70 % and 75 %.

(b) Stocks

	2005	2006	2007	RIP
Closing stock	100	95	119	143

⁽¹⁾ Data is given in index numbers (1998 =100) or in a range whenever it is necessary to preserve confidentiality.

- (62) In the period considered the Union industry's stocks increased overall by 43 %. A significant part of the RBMs production consists of standard products, and the Union industry therefore has to maintain a certain level of stock in order to be in a position to swiftly satisfy the demand of its customers. Any increase of the closing stock above the average level indicates difficulties to sell the products (domestically and on the export market). The seasonality of the sales should also be taken into account: sales are more important during the last quarter of the year, corresponding to the beginning of the school season.

(c) Sales volume, market share and growth

	2005	2006	2007	RIP
Sales volume	100	113	118	123
Market shares	24,4 %	30,2 %	31,5 %	31,1 %

- (63) The Union industry's sales on the EU market increased by 23 % over the period considered and market shares developed from 24,4 % to 31,1 %, i.e. a raise of almost 7 percentage points. This increase of market shares indicates that the Union industry's growth was above the development of the consumption.

- (64) The absolute level of market share remained however below its 2001 level, the previous investigation period, when it reached around 40 %.

(d) Sales prices and costs

	2005	2006	2007	RIP
Sales prices	100	88	88	88

- (65) The Union industry's weighted average selling price decreased by 12 % during the period considered. It should be noted that in the last years the raw material prices (steel) followed an increasing trend worldwide, and that steel represents around 40 % of the total unit cost. Sales prices were loss making from 2006 onwards.

(e) Profitability, return on investments, cash-flow

	2005	2006	2007	RIP
Profitability	100	- 646	- 62	- 115
Return on net assets	100	- 72	- 103	- 53
Cash-flow	100	56	42	- 131

(66) The Union industry was still profitable in 2005, but the situation seriously deteriorated the next year due to circumvention practices which lead to an extension of measures in 2006 and of the product definition in 2008. Although profitability however improved in 2007, the Union industry was still unable to reach break even point and was making losses during the RIP. During the RIP, losses were small.

(67) The cash-flow and return on net assets largely followed the same trend. With such a financial situation the applicant representing the Union industry would undoubtedly face difficulties to raise capital outside the group.

(f) *Investments and ability to raise capital*

	2005	2006	2007	RIP
Investments (EUR)	100	190	85	80

(68) Even if investments followed a decreasing trend, i.e. 20 % during the period considered, the Union industry however maintained a certain level of investments in order to remain competitive. Those investments consisted of new machinery in order to improve the production process and to increase competitiveness.

(69) As stated in recital 66, given the weak financial situation of the Union industry it can be concluded that its ability to raise capital from independent sources was seriously affected.

(g) *Employment, productivity and wages*

	2005	2006	2007	RIP
Employment	100	94	105	104
Productivity	100	109	113	114
Overall wages	100	102	107	111
Wages	100	109	102	106

(70) During the period considered employment (full-time units) increased by 4 % and productivity, measured in thousand of pieces produced per employee during the period, improved by 14 %; overall labour costs increased by 11 %, which is largely explained by the increase of the employment figures; the average wage increase per employee remained more limited.

(h) *Magnitude of the actual margin of dumping*

(71) On the basis of the best facts available, the investigation has established the existence of dumping during the RIP of 20,7 %, which is quite substantial.

4. Conclusion

(72) The Union industry has restructured and benefited to a certain extent from the imposition of measures against dumped imports. Its economic situation has indeed improved in the last years: production, sales, market share and employment show positive trends.

(73) Despite the above-mentioned positive development, the industry could however not fully recover from the injury previously suffered. This is mainly evidenced by the financial indicators: profitability, cash flow and return on net assets are still showing signs of injury. The industry could also not yet reach the level of sales and production it reached in the past. This should also be seen in the light of the fact that during part of the period examined, measures were also undermined by circumventing practices as described above.

(74) Even though there was an improvement of the economic situation of the Union industry, it thus remained in a precarious situation during the period considered.

F. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

(75) The Union industry restructured its activities and benefited from the anti-dumping measures. However, although those measures were imposed for the first time in 1997, they were only fully effective when the effects of absorption and circumvention practices were offset. Even though the situation of the Union industry improved, it remains fragile and vulnerable.

(76) Under such circumstances it is appropriate to carry out an analysis of the likelihood of recurrence of material injury in order to examine whether — should the measures be repealed — projected developments in terms of volumes and prices of imports originating in the PRC would further deteriorate the situation of the industry and cause material injury.

1. Impact of the projected increase in dumped imports on the Union industry

(77) It is recalled that there is significant spare capacity in China and that production of RBMs could easily be increased to a large extent. This is based on the above findings that the sole cooperating Chinese producer could easily restore its currently reduced production capacity and even close down its production site

in Thailand in order to repatriate production to China. Furthermore, other non-cooperating Chinese producers have significant spare capacity or could easily restore such capacity given the short lead time in adaptability of machinery and the overall versatility of equipments necessary to produce RBMs.

(78) It was established that any increase of RBMs production in PRC would more than likely be massively exported to the EU if measures were repealed. This is based on the fact that the EU market remains significant in terms of size and was historically an important market for Chinese exporters who would certainly try to regain their lost market shares. The attractiveness of the EU market for Chinese exporters was also clearly evidenced by the numerous attempts to avoid the anti-dumping measures in place. Measures were indeed absorbed, circumvented via third countries and even via slight modification of the products.

(79) Finally, it is established that the conditions of any future increase of RBMs imports in the EU would have serious negative consequences on the situation of the Union industry. As mentioned above, if measures were repealed, the import volume of RBMs from PRC is expected to be important. Furthermore, those imports would most probably exert a significant price pressure on the EU market, thus on the Union industry, as suggested by the analysis of the level of prices on the EU and third country markets. Indeed, according to Eurostat, the current Chinese prices do undercut EU prices by around 10 % (excluding anti-dumping duties), and they are currently much higher than the average price of China's potential competitors (India and Thailand) on the EU market. In case measures were repealed and Chinese producers would be in a position to export all types of RBMs without any AD duties in the EU, it is more than likely that they would, at least to a certain extent, align their prices to their competitor's. This is also confirmed by the (low) level of the Chinese prices on third country market, according to China's export statistics. Without any measures, the EU market would thus become very attractive for Chinese exporters.

2. Conclusion on the likelihood of recurrence of injury

(80) On the basis of the above, it is likely that the expiry of the anti-dumping measures on imports of RBMs originating in the PRC would result in a sharp increase in the volume of imports into the EU at very low prices, and that this would depress the overall level of prices on the EU market. It should be noted that the bulk of the products on the RBMs market is highly standardised and the price is thus the main decisive factor.

(81) Given the already precarious situation of the Union industry, a substantial increase of imports from the PRC at dumped prices combined with a substantial price undercutting would undoubtedly have serious consequences on its situation. This would cause material injury and thus annihilate the efforts made by the industry to restructure.

G. UNION INTEREST

1. Introduction

(82) It was examined whether compelling reasons existed that could lead to the conclusion that it is not in the Union interest to renew the anti-dumping measures in force. For this purpose, and in accordance with Article 21 of the basic Regulation, the impact of the renewal of the measures on all parties involved in this proceeding and the consequences of the expiry of the measures were considered on the basis of all evidence submitted.

(83) In order to assess the impact of the possible maintenance of measures, all interested parties were given the opportunity to make their views known pursuant to Article 21(2) of the basic Regulation. As already mentioned, only the cooperating Union producers and three unrelated importers replied to the questionnaire. One unrelated importer and one user also made comments, without replying to the questionnaire.

2. Interest of the Union industry

(84) The Union industry consisted of two producers when the first anti-dumping complaint was lodged in 1995: Koloman Handler GmbH, an Austrian company, and Robert Krause GmbH & Co, a German company. Those two companies were present on the EU market for a long time but they were subject to significant financial difficulties, amongst other things because of unfair traded imports.

(85) Their economic situation was so bad that they both had to file for bankruptcies. While Robert Krause GmbH filed for bankruptcy in 1998 and its successor company had to do the same in 2002, Koloman Handler became insolvent in 2001. Both companies were taken over by another company, SX Bürowaren Produktions- und Handels GmbH, which in turn was acquired by Ring Alliance Ringbuchtechnik GmbH, the Complainant in this review.

(86) Since then the activity has been restructured in order to better compete worldwide, but especially on the core market of the Complainant, i.e. the EU market.

(87) The acquisition of Bensons, a well-established trader of RBMs with companies located in the Netherlands, Singapore, the United Kingdom and the USA, clearly showed the will of the Union industry to enhance its access to the market on a worldwide basis and the seriousness of its restructuring efforts.

(88) The efforts of the Complainant have been successful, at least partly, as can be seen from the analysis of the economic situation of the company. In the last years, production, sales volume and market share increased as well as employment.

(89) The efforts undertaken by the industry in order to improve its situation have however been undermined given that the effects of the measures against unfair imports have been diluted by absorption and circumvention practices. As a consequence, despite significant improvement, the situation of the industry remains fragile, as it is evidenced by the development of the financial indicators.

(90) Therefore, the industry is still vulnerable to the effects of any increased imports from the PRC at low and dumped prices. It is obvious that, should the measures be repealed, the industry would again face serious difficulties which may lead to its definitive disappearance. Through its restructuring efforts the Union industry proved it is a viable industry which is still in a position to supply an important share of the EU market, but it needs additional and efficient protection against dumped imports in order to reach a solid and healthy situation.

(91) On this basis it is concluded that it would be in the interest of the Union industry to maintain the measures for another five year period.

3. Interests of importers

(92) Four unrelated importers participated to this investigation but only three of them provided a questionnaire reply. However, they did not import RBMs from PRC anymore, except for one which imported only mechanisms with 17 and 23 rings subject to a minimum import price. While two of them opposed the investigation and contested the 10 year long anti-dumping measures in force, the third one was rather neutral and stated that he was not affected by the current measures.

(93) The importers mainly complained about the limited sources of supply on the EU market given the magnitude of the anti-dumping measures against imports from PRC and given the important market share of the Union industry as well as the fact that it

also owns an important distributor of RBMs on the EU market which allegedly has some kind of exclusivity for RBMs originating in India.

(94) In this respect it should be noted that there are currently various sources of supply on the EU market, either from the Union industry, the other Union producer or from sources other than the PRC such as Thailand.

(95) In addition, even though it is true that the level of the current measures is relatively high, it should be recalled that measures were increased as a result of an investigation that showed that measures were absorbed by Chinese exporters. The current level is therefore fully justified.

(96) Since measures have been imposed and their level increased, the imports from the PRC have significantly dropped and only accounted for a minor portion of the EU market during the RIP. Importers have however adjusted to the situation and have changed sources of supply. Even if it is acknowledged that without measures they would have a wider source of supply, because importers currently do not import RBMs originating in the PRC, the maintenance of the measures would not cause any adverse effect on the economic situation of those importers.

(97) On this basis it is concluded that maintaining the measures in place would not materially affect importers.

4. Interests of users

(98) The only user which replied to the questionnaire provided arguments in favour of the extension of measures, arguing that the EU produced RBMs are of a much better quality than those imported from the PRC.

(99) Another user made some comments but did not provide any evidence to substantiate them. This suggests that, although measures have been in place, users were not significantly affected by these measures. The situation of users is thus unlikely to deteriorate as a result of the maintenance of anti-dumping measures.

5. Interests of upstream industry

(100) Suppliers of steel wire and steel strip sell a negligible percentage of their production to the Union industry and, as such, are not affected by the outcome of this proceeding. None of them made themselves known as an interested party.

6. Competition and trade distorting effects

- (101) With respect to the effects of possible expiry of the measures on competition in the EU, it should be noted that there are only a few producers of RBMs worldwide, which are mostly Chinese or controlled by Chinese exporting producers. The disappearance of the remaining few producers not controlled by Chinese companies would thus have negative effects on competition in the EU.

7. Conclusion on Union interest

- (102) Taking into account the above factors and considerations, it is concluded that there are no compelling reasons against the maintenance of the current anti-dumping measures.

H. DISCLOSURE AND ANTI-DUMPING MEASURES

- (103) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained. They were also granted a period to submit comments and claims subsequent to disclosure. Relevant representations submitted were analysed but have not lead to the alteration of the essential facts and considerations on the basis of which it was decided to maintain the current anti-dumping measures.
- (104) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of certain ring binder mechanisms originating in the People's Republic of China, imposed by Regulation (EC) No 2074/2004, should be renewed,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of certain ring binder mechanisms currently falling within CN code ex 8305 10 00 originating in the People's Republic of China.

2. For the purpose of this Article, ring binder mechanisms shall consist of two steel sheets or wires with at least four half-rings made of steel wire fixed on them and which are kept together by a steel cover. They can be opened either by pulling the half rings or with a small steel trigger mechanism fixed to the ring binder mechanism.

3. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, shall be as follows:

- (a) for mechanisms with 17 and 23 rings (TARIC codes 8305 10 00 21, 8305 10 00 23, 8305 10 00 29 and 8305 10 00 35), the amount of duty shall be equal to the difference between the minimum import price of EUR 325 per 1 000 pieces and the net, free-at-Union-frontier price, before duty;
- (b) for mechanisms other than those with 17 or 23 rings (TARIC codes 8305 10 00 11, 8305 10 00 13, 8305 10 00 19 and 8305 10 00 34)

	Rate of duty	TARIC additional code
People's Republic of China:		
— World Wide Stationery Mfg, Hong Kong, People's Republic of China	51,2 %	8934
— all other companies	78,8 %	8900

Article 2

1. A definitive anti-dumping duty is hereby imposed on imports of certain ring binder mechanisms currently falling within CN code ex 8305 10 00 consigned from Vietnam whether declared as originating in Vietnam or not (TARIC codes 8305 10 00 11 and 8305 10 00 21).

2. A definitive anti-dumping duty is hereby imposed on imports of certain ring binder mechanisms currently falling within CN code ex 8305 10 00 consigned from the Lao People's Democratic Republic whether declared as originating in the Lao People's Democratic Republic or not (TARIC codes 8305 10 00 13 and 8305 10 00 23).

3. For the purpose of this Article, ring-binder mechanisms shall consist of two rectangular steel sheets or wires with at least four half-rings made of steel wire fixed on it and which are kept together by a steel cover. They can be opened either by pulling the half-rings or with a small steel-made trigger mechanism fixed to the ring-binder mechanism.

4. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, shall be as follows:

- (a) for mechanisms with 17 and 23 rings (TARIC codes 8305 10 00 21, and 8305 10 00 23), the amount of duty shall be equal to the difference between the minimum import price of EUR 325 per 1 000 pieces and the net, free-at-Union-frontier price, before duty;

(b) for mechanisms other than those with 17 or 23 rings (TARIC codes 8305 10 00 11, and 8305 10 00 13) the amount of duty shall be 78,8 %.

Article 3

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

Article 4

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

Article 5

This Regulation shall be published 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, 22 February 2010.

For the Council
The President
C. ASHTON

COMMISSION REGULATION (EU) No 158/2010**of 25 February 2010****fixing for 2010 the amount of aid in advance for private storage of butter**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 43(a) and (d), in conjunction with Article 4 thereof,

Whereas:

- (1) Article 28 of Regulation (EC) No 1234/2007 provides for the granting of private storage aid for butter.
- (2) Developments in prices and stocks of butter indicate an imbalance in the market which may be eliminated or reduced by the seasonal storage. In view of the current market situation it is appropriate to grant aid for private storage of butter as from 1 March 2010.
- (3) Commission Regulation (EC) No 826/2008 of 20 August 2008 laying down common rules for the granting of private storage aid for certain agricultural products ⁽²⁾ has established common rules for the implementation of a private storage aid scheme.
- (4) Pursuant to Article 6 of Regulation (EC) No 826/2008, an aid fixed in advance is to be granted in accordance with the detailed rules and conditions provided for in Chapter III of that Regulation.
- (5) To facilitate the implementation of the present measure taking into consideration the existing practice in the Member States, Article 7(3) of Regulation (EC) No 826/2008 should relate only to products that have been fully placed into storage. Consequently, derogation from that Article should be introduced.
- (6) In accordance with Article 29 of Regulation (EC) No 1234/2007 the aid shall be fixed in the light of storage costs and the likely trends in prices for fresh butter and butter from stocks.
- (7) It is appropriate to fix an aid for the costs for entry and exit of products concerned and for daily costs for cold storage and financing.
- (8) For reasons of administrative efficiency and simplification, where the required information concerning storage details are already included in the application for aid, it is appropriate to waive the request to notify the same information after the conclusion of the contract as provided for in Article 20, first paragraph, point (a) of Regulation (EC) No 826/2008.
- (9) For reason of administrative efficiency and simplification, taking into account the particular situation for butter storage, checks provided for in Article 36(6) of Regulation (EC) No 826/2008 should be carried out in respect of at least one half of the contracts. Consequently, derogation from that Article should be introduced. This derogation should be applicable as well to removals as referred to in Article 4(3)(b) of Commission Regulation (EC) No 1182/2008 of 28 November 2008 fixing for 2009 the amount of aid in advance for private storage of butter ⁽³⁾.
- (10) For reasons of simplification and logistic efficiency, the requirement to mark the contract number on each unit stored could be waived where the contracts number is entered in the stores register.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation provides for private storage aid for salted and unsalted butter as referred to in Article 28(a) of Regulation (EC) No 1234/2007 for the contracts concluded from 1 March 2010.

Article 2

1. Regulation (EC) No 826/2008 shall apply save as otherwise provided for in this Regulation.

2. By way of derogation from Article 7(3) of Regulation (EC) No 826/2008 applications shall only relate to products that have been fully placed into storage.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 223, 21.8.2008, p. 3.

⁽³⁾ OJ L 319, 29.11.2008, p. 49.

Article 3

The unit of measurement referred to in Article 16(2)(c) of Regulation (EC) No 826/2008 is the 'storage lot' which corresponds to the quantity of the product covered by this Regulation, weighing at least one tonne and of homogeneous composition and quality, produced in a single factory, taken into storage in a single warehouse on a single day.

Article 4

1. The aid for the products referred in Article 1 shall be:

— EUR 18,31 per tonne of storage for fixed storage costs,

— EUR 0,34 per tonne per day of contractual storage.

2. Entry into contractual storage shall take place between 1 March and 15 August 2010. Removal from store may take place only as from 16 August 2010. Contractual storage shall end on the day preceding that of the removal from storage or at the latest the last day of February following the year of entry into store.

3. Aid may be granted only where the contractual storage period is between 90 and 210 days.

Article 5

Member States shall notify the Commission each Tuesday by 12 noon (Brussels time) the quantities for which contracts have

been concluded as required under Article 35(1)(a) of Regulation (EC) No 826/2008, as well as the quantities of products for which applications to conclude contracts have been submitted.

Article 6

1. Article 20, first paragraph, point (a) of Regulation (EC) No 826/2008 shall not apply.

2. Member States may waive the requirements referred to in Article 22(1)(e) of Regulation (EC) No 862/2008 to mark the contract number provided the store manager undertakes to enter the contract number in the register referred to in Annex I point III of that Regulation.

3. By way of derogation from Article 36(6) of Regulation (EC) No 826/2008, at the end of the contractual storage period, the authority responsible for checking shall, throughout the whole of the removal period from August 2010 to February 2011, in respect of at least one half of the number of contracts, by sampling, verify weight and identification of the butter in storage.

Subparagraph 1 shall apply to checks during the removal period from 16 August 2010 as referred to in Article 4(3)(b) of Regulation (EC) No 1182/2008.

Article 7

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

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

Done at Brussels, 25 February 2010.

For the Commission

The President

José Manuel BARROSO

COMMISSION REGULATION (EU) No 159/2010
of 25 February 2010
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE EUROPEAN COMMISSION,

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

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

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 26 February 2010.

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

Done at Brussels, 25 February 2010.

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

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	114,6
	JO	79,9
	MA	92,1
	TN	128,5
	TR	109,1
	ZZ	104,8
0707 00 05	EG	216,8
	JO	138,7
	TR	146,0
	ZZ	167,2
0709 90 70	IL	265,5
	MA	137,3
	TR	125,8
	ZZ	176,2
0709 90 80	EG	82,2
	ZZ	82,2
0805 10 20	EG	49,3
	IL	58,3
	MA	50,3
	TN	48,2
	TR	60,4
	ZZ	53,3
0805 20 10	EG	65,1
	IL	140,3
	MA	87,5
	TR	80,4
	ZZ	93,3
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	60,5
	EG	69,6
	IL	81,8
	JM	97,9
	MA	112,6
	PK	34,1
	TR	60,6
	ZZ	73,9
0805 50 10	EG	76,3
	IL	76,3
	MA	68,6
	TR	57,9
	ZZ	69,8
0808 10 80	CA	77,1
	CL	59,9
	CN	68,0
	MK	24,7
	US	110,2
	ZZ	68,0
0808 20 50	AR	85,3
	CL	75,8
	CN	45,8
	US	91,8
	ZA	101,2
	ZZ	80,0

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

COMMISSION REGULATION (EU) No 160/2010**of 25 February 2010****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year**

THE EUROPEAN COMMISSION,

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

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

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

Whereas:

(1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2009/10 marketing year are fixed by Commission Regulation (EC) No 877/2009 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EU) No 155/2010 ⁽⁴⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 877/2009 for the 2009/10, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 26 February 2010.

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

Done at Brussels, 25 February 2010.

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

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

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 253, 25.9.2009, p. 3.

⁽⁴⁾ OJ L 48, 25.2.2010, p. 9.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 26 February 2010

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	43,40	0,00
1701 11 90 ⁽¹⁾	43,40	1,88
1701 12 10 ⁽¹⁾	43,40	0,00
1701 12 90 ⁽¹⁾	43,40	1,59
1701 91 00 ⁽²⁾	49,77	2,54
1701 99 10 ⁽²⁾	49,77	0,00
1701 99 90 ⁽²⁾	49,77	0,00
1702 90 95 ⁽³⁾	0,50	0,22

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

COMMISSION REGULATION (EU) No 161/2010**of 25 February 2010****fixing the maximum reduction in the duty on maize imported under the invitation to tender issued in Regulation (EC) No 676/2009**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products ('Single CMO' Regulation) ⁽¹⁾, and in particular Article 144(1) in conjunction with Article 4 thereof,

Whereas:

- (1) An invitation to tender for the maximum reduction in the duty on maize imported into Spain from third countries was opened by Commission Regulation (EC) No 676/2009 ⁽²⁾.
- (2) Under Article 8 of Commission Regulation (EC) No 1296/2008 of 18 December 2008 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal ⁽³⁾ the Commission, in accordance the procedure laid down in Article 195(2) of Regulation (EC) No 1234/2007, may decide to fix a maximum

reduction in the import duty. In fixing this maximum the criteria provided for in Articles 7 and 8 of Regulation (EC) No 1296/2008 must be taken into account.

- (3) A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.
- (4) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders lodged from 12 February to 25 February 2010 under the invitation to tender issued in Regulation (EC) No 676/2009, the maximum reduction in the duty on maize imported shall be 19,06 EUR/t for a total maximum quantity of 1 000 t.

Article 2

This Regulation shall enter into force on 26 February 2010.

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

Done at Brussels, 25 February 2010.

*For the Commission,
On behalf of the President,**Jean-Luc DEMARTY
Director-General for Agriculture and
Rural Development*⁽¹⁾ OJ L 299, 16.11.2007, p. 1.⁽²⁾ OJ L 196, 28.7.2009, p. 6.⁽³⁾ OJ L 340, 19.12.2008, p. 57.

COMMISSION REGULATION (EU) No 162/2010**of 25 February 2010****fixing the maximum reduction in the duty on maize imported under the invitation to tender issued
in Regulation (EC) No 677/2009**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 144(1) in conjunction with Article 4 thereof,

Whereas:

- (1) An invitation to tender for the maximum reduction in the duty on maize imported into Portugal from third countries was opened by Commission Regulation (EC) No 677/2009 ⁽²⁾.
- (2) Under Article 8 of Commission Regulation (EC) No 1296/2008 of 18 December 2008 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal ⁽³⁾ the Commission, in accordance the procedure laid down in Article 195(2) of Regulation (EC) No 1234/2007, may decide to fix a maximum

reduction in the import duty. In fixing this maximum the criteria provided for in Articles 7 and 8 of Regulation (EC) No 1296/2008 must be taken into account.

- (3) A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.
- (4) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders lodged from 12 February to 25 February 2010 under the invitation to tender issued in Regulation (EC) No 677/2009, the maximum reduction in the duty on maize imported shall be EUR 19,25/t for a total maximum quantity of 20 000 t.

Article 2

This Regulation shall enter into force on 26 February 2010.

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

Done at Brussels, 25 February 2010.

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

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

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 196, 28.7.2009, p. 7.

⁽³⁾ OJ L 340, 19.12.2008, p. 57.

DECISIONS

COUNCIL DECISION 2010/118/CFSP

of 25 February 2010

extending the mandate of the European Union Special Representative in Kosovo ⁽¹⁾

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and, in particular Articles 28, 31(2) and 33 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 10 June 1999, the United Nations Security Council adopted Resolution 1244.
- (2) On 15 September 2006, the Council adopted Joint Action 2006/623/CFSP ⁽²⁾ on the establishment of a team to contribute to the preparations of the establishment of a possible International Civilian Office in Kosovo, including a European Union Special Representative component (ICO/EUSR Preparation Team).
- (3) On 13/14 December 2007, the European Council underlined that the European Union (EU) stands ready to play a leading role in strengthening stability in the region and in implementing a settlement defining Kosovo's future status. It stated the Union's readiness to assist Kosovo in the path towards sustainable stability, including by a European Security and Defence Policy (ESDP) mission and a contribution to an International Civilian Office as part of the international presences.
- (4) On 4 February 2008, the Council adopted Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO ⁽³⁾ and Joint Action 2008/123/CFSP ⁽⁴⁾ appointing Mr Pieter FEITH European Union Special Representative (EUSR) in Kosovo until 28 February 2009.
- (5) On 16 February 2009, the Council adopted Joint Action 2009/137/CFSP extending the mandate of the EUSR until 28 February 2010 ⁽⁵⁾.
- (6) The mandate of the EUSR should be extended until 31 August 2010. However, the mandate of the EUSR may be terminated earlier, if the Council so decides, on a recommendation of the High Representative of the Union for Foreign Affairs and Security Policy (HR) following the entry into force of the decision establishing the European External Action Service.
- (7) The Stabilisation and Association Process is the strategic framework of the Union's policy towards the Western Balkan region, and its instruments apply to Kosovo, including a European partnership, political and technical dialogue under the SAP Tracking Mechanism, and related Union assistance programmes.
- (8) The EUSR's mandate should be implemented in coordination with the Commission in order to ensure consistency with other relevant activities falling within Union competence.
- (9) The Council foresees that the powers and authorities of the EUSR and the powers and authorities of an International Civilian Representative shall be vested in the same person.
- (10) The EUSR will implement his mandate in the context of a situation which may deteriorate and could harm the objectives of the Common Foreign and Security Policy as set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

European Union Special Representative

The mandate of Mr Pieter FEITH as the European Union Special Representative (EUSR) in Kosovo is hereby extended until 31 August 2010. The mandate of the EUSR may be terminated earlier, if the Council so decides, on a recommendation of the HR following the entry into force of the decision establishing the European External Action Service.

⁽¹⁾ Under United Nations Security Council Resolution 1244 (1999).

⁽²⁾ OJ L 253, 16.9.2006, p. 29.

⁽³⁾ OJ L 42, 16.2.2008, p. 92.

⁽⁴⁾ OJ L 42, 16.2.2008, p. 88.

⁽⁵⁾ OJ L 46, 17.2.2009, p. 69. Amended by 2009/605/CFSP (OJ L 206, 8.8.2009, p. 20).

*Article 2***Policy objectives**

The mandate of the EUSR shall be based on the policy objectives of the Union in Kosovo. These include to play a leading role in strengthening stability in the region and in implementing a settlement defining Kosovo's future status, with the aim of a stable, viable, peaceful, democratic and multi-ethnic Kosovo, contributing to regional cooperation and stability, on the basis of good neighbourly relations; a Kosovo that is committed to the rule of law and to the protection of minorities and of cultural and religious heritage.

*Article 3***Mandate**

In order to achieve the policy objectives, the mandate of the EUSR shall be to:

- (a) offer the Union's advice and support in the political process;
- (b) promote overall Union political coordination in Kosovo;
- (c) provide local political guidance to the Head of the European Union Rule of Law Mission in Kosovo (EULEX KOSOVO), including on the political aspects of issues relating to executive responsibilities;
- (d) ensure consistency and coherence of Union action towards the public. The EUSR spokesperson shall be the main Union point of contact for Kosovo media on Common Foreign and Security Policy/Common Security and Defence Policy (CFSP/CSDP) issues. All press and public information activities will be conducted in close and continued coordination with the High Representative of the Union for Foreign Affairs and Security Policy (HR) spokesperson/Council Secretariat Press Office;
- (e) contribute to the development and consolidation of respect for human rights and fundamental freedoms in Kosovo, including with regard to women and children, in accordance with EU human rights policy and EU Guidelines on Human Rights.

*Article 4***Implementation of the mandate**

1. The EUSR shall be responsible for the implementation of the mandate acting under the authority of the HR.
2. The Political and Security Committee (PSC) shall maintain a privileged link with the EUSR and shall be the EUSR's primary point of contact with the Council. The PSC shall provide the EUSR with strategic guidance and political direction within the framework of the mandate, without prejudice to the powers of the HR.

*Article 5***Financing**

1. The financial reference amount intended to cover the expenditure related to the mandate of the EUSR in the period from 1 March 2010 to 31 August 2010 shall be EUR 1 660 000.
2. The expenditure financed by the amount stipulated in paragraph 1 shall be eligible as from 1 March 2010. The expenditure shall be managed in accordance with the procedures and rules applicable to the general budget of the Union. Nationals of the countries of the Western Balkans region shall be allowed to tender for contracts.
3. The management of the expenditure shall be subject to a contract between the EUSR and the Commission. The EUSR shall be accountable to the Commission for all expenditure.

*Article 6***Constitution and composition of the team**

1. A dedicated Union staff shall be assigned to assist the EUSR to implement his mandate and to contribute to the coherence, visibility and effectiveness of Union action in Kosovo overall. Within the limits of his mandate and the corresponding financial means made available, the EUSR shall be responsible for constituting his team. The team shall include the expertise on specific policy issues as required by the mandate. The EUSR shall keep the Council and the Commission promptly informed of the composition of his team.
2. Member States and Institutions of the Union may propose the secondment of staff to work with the EUSR. The salary of personnel who are seconded by a Member State or an institution of the Union to the EUSR shall be covered by the Member State or the institution of the Union concerned, respectively. Experts seconded by Member States to the General Secretariat of the Council may also be posted to the EUSR. International contracted staff shall have the nationality of a Member State.
3. All seconded personnel shall remain under the administrative authority of the sending Member State or Union institution and shall carry out their duties and act in the interest of the mandate of the EUSR.

*Article 7***Privileges and immunities of the EUSR and his staff**

The privileges, immunities and further guarantees necessary for the completion and smooth functioning of the mission of the EUSR and the members of his staff shall be agreed with the host party/parties as appropriate. Member States and the Commission shall grant all necessary support to such effect.

Article 8

Security of classified information

1. The EUSR and the members of his team shall respect the security principles and minimum standards established by Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations⁽¹⁾, in particular when managing EU classified information.

2. The HR shall be authorised to release to NATO/KFOR EU classified information and documents up to the level 'CONFIDENTIEL UE' generated for the purposes of the action, in accordance with the Council's security regulations.

3. The HR shall be authorised to release to the United Nations (UN) and the Organisation for Security and Co-operation in Europe (OSCE), in accordance with the operational needs of the EUSR, EU classified information and documents up to the level 'RESTREINT UE' which are generated for the purposes of the action, in accordance with the Council's security regulations. Local arrangements shall be drawn up for this purpose.

4. The HR shall be authorised to release to third parties associated with this Decision EU non-classified documents related to the deliberations of the Council with regard to the action covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure⁽²⁾.

Article 9

Access to information and logistical support

1. Member States, the Commission and the General Secretariat of the Council shall ensure that the EUSR is given access to any relevant information.

2. The Union delegation and/or Member States, as appropriate, shall provide logistical support in the region.

Article 10

Security

In accordance with the Union's policy on the security of personnel deployed outside the Union in an operational capacity under Title V of the Treaty, the EUSR shall take all reasonably practicable measures, in conformity with his mandate and the security situation in his geographical area of responsibility, for the security of all personnel under his direct authority, notably by:

(a) establishing a mission-specific security plan based on guidance from the General Secretariat of the Council, including mission-specific physical, organisational and procedural security measures, governing management of the secure movement of personnel to, and within, the mission area, as well as the management of security incidents and including a mission contingency and evacuation plan;

(b) ensuring that all personnel deployed outside the Union are covered by high risk insurance as required by the conditions in the mission area;

(c) ensuring that all members of his team to be deployed outside the Union, including locally contracted personnel, have received appropriate security training before or upon arriving in the mission area, based on the risk ratings assigned to the mission area by the General Secretariat of the Council;

(d) ensuring that all agreed recommendations made following regular security assessments are implemented and providing the HR, the Council and the Commission with written reports on their implementation and on other security issues within the framework of the mid-term and mandate implementation reports.

Article 11

Reporting

The EUSR shall regularly provide the HR and the PSC with oral and written reports. The EUSR shall also report as necessary to Council working parties. Regular written reports shall be circulated through the COREU network. Upon recommendation of the HR or the PSC, the EUSR may provide the Foreign Affairs Council with reports.

Article 12

Coordination

1. The EUSR shall promote overall Union political coordination. He shall help ensure that all Union instruments in the field are engaged coherently to attain the Union's policy objectives. The activities of the EUSR shall be coordinated with those of the Commission, as well as those of other EUSRs active in the region as appropriate. The EUSR shall provide regular briefings to Member States' missions and the Union's delegations.

2. In the field, close liaison shall be maintained with the Heads of Union delegations in the region and Member States' Heads of Mission. They shall make best efforts to assist the EUSR in the implementation of the mandate. The EUSR shall provide local political guidance to the Head of EULEX KOSOVO, including on the political aspects of issues relating to executive responsibilities. The EUSR and the Civilian Operation Commander will consult each other as required.

3. The EUSR shall also liaise with relevant local bodies and other international and regional actors in the field.

4. The EUSR, with other Union actors present in the field, shall ensure the dissemination and sharing of information among Union actors in theatre with a view to achieving a high degree of common situation awareness and assessment.

⁽¹⁾ OJ L 101, 11.4.2001, p. 1.

⁽²⁾ Decision 2009/937/EU adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

*Article 13***Review**

The implementation of this Decision and its consistency with other contributions from the Union to the region shall be kept under regular review. The EUSR shall present the HR, the Council and the Commission with a mandate implementation report at the end of the mandate.

*Article 14***Entry into force**

This Decision shall enter into force on the date of its adoption.
It shall apply from 1 March 2010.

*Article 15***Publication**

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

Done at Brussels, 25 February 2010.

For the Council

The President

A. PÉREZ RUBALCABA

COUNCIL DECISION 2010/119/CFSP

of 25 February 2010

extending and amending the mandate of the European Union Special Representative to the African Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28, 31(2) and 33 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 6 December 2007, the Council adopted Joint Action 2007/805/CFSP⁽¹⁾ appointing Mr Koen VERVAEKE as European Union Special Representative (EUSR) to the African Union (AU).
- (2) On 1 December 2008, the Council adopted Joint Action 2008/898/CFSP⁽²⁾ extending the mandate of the EUSR until 28 February 2010.
- (3) The mandate of the EUSR should be extended until 31 August 2010. However, the mandate of the EUSR may be terminated earlier, if the Council so decides, on a recommendation of the High Representative of the Union for Foreign Affairs and Security Policy (HR) following the entry into force of the decision establishing the European External Action Service.
- (4) The EUSR is to implement his mandate in the context of a situation which may deteriorate and could harm the objectives of the Common Foreign and Security Policy, as set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Joint Action 2008/898/CFSP is hereby amended as follows:

1. Article 1 is replaced by the following:

'Article 1

European Union Special Representative

The mandate of Mr Koen VERVAEKE as EUSR to the AU is hereby extended until 31 August 2010. The mandate of the EUSR may be terminated earlier, if the Council so decides, on a recommendation of the High Representative of the Union for Foreign Affairs and Security Policy (HR) following the entry into force of the decision establishing the European External Action Service.'

2. in Article 3, the first paragraph and points (a) and (k) are replaced by the following:

'In order to achieve the Common Foreign and Security Policy (CFSP)/Common Security and Defence Policy (CSDP) aspects of the objectives referred to in Article 2, the mandate of the EUSR shall be to:

- (a) strengthen the overall EU influence in, and coordination of, the Addis Ababa-based dialogue with the AU and its Commission, on the whole range of CFSP/CSDP issues covered by the EU-AU relationship;
- (k) maintain close contacts and promote coordination with key international partners of the AU present in Addis Ababa, especially the United Nations, but also with non-State actors on the whole range of the CFSP/CSDP issues covered by the EU-AU relationship.'

3. Article 4 is replaced by the following:

'Article 4

Implementation of the mandate

1. The EUSR shall be responsible for the implementation of the mandate acting under the authority of the HR.
2. The Political and Security Committee (PSC) shall maintain a privileged link with the EUSR and shall be the EUSR's primary point of contact with the Council. The PSC shall provide the EUSR with strategic guidance and political direction within the framework of the mandate, without prejudice to the powers of the HR.'

4. Article 5(1) and (2) is replaced by the following:

'1. The financial reference amount intended to cover the expenditure related to the mandate of the EUSR in the period from 1 January 2009 to 31 August 2010 shall be EUR 1 850 000.

2. The expenditure financed by the amount stipulated in paragraph 1 shall be eligible as from 1 January 2009. The expenditure shall be managed in accordance with the procedures and rules applicable to the general budget of the European Union.'

⁽¹⁾ OJ L 323, 8.12.2007, p. 45.

⁽²⁾ OJ L 322, 2.12.2008, p. 50.

5. Article 6(1) is replaced by the following:

'1. Within the limits of his mandate and the corresponding financial means made available, the EUSR shall be responsible for constituting his team. The team shall include the expertise on specific policy issues as required by the mandate. The EUSR shall keep the Council and the Commission promptly informed of the composition of his team.'

6. Article 9(2) is replaced by the following:

'2. The Union delegation and/or Member States, as appropriate, shall provide logistical support in the region.'

7. in Article 10, point (d) is replaced by the following:

'(d) ensuring that all agreed recommendations made following regular security assessments are implemented and providing the HR, the Council and the Commission with written reports on their implementation and on other security issues within the framework of the mid-term and mandate implementation reports.'

8. Article 11 is replaced by the following:

'Article 11

Reporting

The EUSR shall regularly provide the HR and the PSC with oral and written reports. The EUSR shall also report as necessary to Council working parties. Regular written reports shall be circulated through the COREU network. Upon recommendation of the HR or the PSC, the EUSR may provide Foreign Affairs Council with reports.'

9. Article 12 is replaced by the following:

'Article 12

Coordination

The EUSR shall promote overall Union political coordination. He shall help to ensure that all Union instruments in the field are engaged coherently to attain the Union's policy objectives. The activities of the EUSR shall be coordinated with those of the Commission, as well as those of other EUSRs active in the region as appropriate. The EUSR shall provide Member States' missions and Union delegations with regular briefings.

In the field, close liaison shall be maintained with the Heads of the Union delegations in the region and Member States' Heads of Mission who shall make best efforts to assist the EUSR in the implementation of the mandate. The EUSR shall also liaise with other international and regional actors in the field.'

Article 2

The EUSR shall present the HR, the Council and the Commission with a mandate implementation report before the end of the mandate.

Article 3

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

It shall apply from 1 March 2010.

Article 4

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

Done at Brussels, 25 February 2010.

For the Council

The President

A. PÉREZ RUBALCABA

COUNCIL DECISION 2010/120/CFSP

of 25 February 2010

extending and amending the mandate of the European Union Special Representative for Afghanistan and Pakistan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28, 31(2) and 33 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 24 July 2008, the Council adopted Joint Action 2008/612/CFSP⁽¹⁾ appointing Mr Ettore F. SEQUI as the European Union Special Representative (EUSR) for Afghanistan for the period from 1 September 2008 to 28 February 2009.
- (2) On 16 February 2009, the Council adopted Joint Action 2009/135/CFSP⁽²⁾ extending the mandate of the EUSR for Afghanistan until 28 February 2010.
- (3) On the basis of a review of Joint Action 2009/135/CFSP, on 15 June 2009 the Council adopted Joint Action 2009/467/CFSP⁽³⁾, expanding the mandate of the EUSR for Afghanistan to include Pakistan.
- (4) The mandate of the EUSR should be extended until 31 March 2010.
- (5) The EUSR for Afghanistan and Pakistan will implement his mandate in the context of a situation which may deteriorate and could harm the Common Foreign and Security Policy objectives set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Joint Action 2009/467/CFSP is hereby amended as follows:

1. Article 1 is replaced by the following:

'Article 1

European Union Special Representative

The mandate of Mr Ettore F. SEQUI as the European Union Special Representative (EUSR) for Afghanistan and Pakistan is hereby extended until 31 March 2010.;

2. Article 2, point (e) is replaced by the following:

'(e) support the work of the High Representative of the Union for Foreign Affairs and Security Policy (HR) in the region.'

3. Article 4 is replaced by the following:

'Article 4

Implementation of the mandate

1. The EUSR shall be responsible for the implementation of the mandate acting under the authority of the HR.

2. The Political and Security Committee (PSC) shall maintain a privileged link with the EUSR and shall be the EUSR's primary point of contact with the Council. The PSC shall provide the EUSR with strategic guidance and political direction within the framework of the mandate, without prejudice to the powers of the HR.'

4. Article 5(1) and (2) is replaced by the following:

'1. The financial reference amount intended to cover the expenditure related to the mandate of the EUSR in the period from 1 March 2009 to 31 March 2010 shall be EUR 2 830 000.;

'2. The expenditure financed by the amount stipulated in paragraph 1 shall be eligible as from 1 March 2009. The expenditure shall be managed in accordance with the procedures and rules applicable to the general budget of the European Union.'

5. Article 6(1) shall be replaced by the following:

'1. Within the limits of his mandate and the corresponding financial means made available, the EUSR shall be responsible for constituting his team. The team shall include the expertise on specific policy issues as required by the mandate. The EUSR shall keep the Council and the Commission promptly informed of the composition of his team.'

⁽¹⁾ OJ L 197, 25.7.2008, p. 60.

⁽²⁾ OJ L 46, 17.2.2009, p. 61.

⁽³⁾ OJ L 151, 16.6.2009, p. 41.

6. Article 9(2) is replaced by the following:

'2. The Union delegations and/or Member States, as appropriate, shall provide logistical support in the region.'

7. Article 10, point (d) is replaced by the following:

'(d) ensuring that all agreed recommendations made following regular security assessments are implemented and providing the HR, the Council and the Commission with written reports on their implementation and on other security issues within the framework of the mid-term and mandate implementation reports.'

8. Article 11 is replaced by the following:

'Article 11

Reporting

The EUSR shall regularly provide oral and written reports to the HR and the PSC. The EUSR shall also report as necessary to Council working parties. Regular written reports shall be circulated through the COREU network. Upon recommendation of the HR or the PSC, the EUSR may provide reports to the Foreign Affairs Council (FAC).'

9. Article 12 is replaced by the following:

'Article 12

Coordination

1. The EUSR shall promote overall Union political coordination. He shall help to ensure that all Union instruments in the field are engaged coherently to attain the Union's policy objectives. The activities of the EUSR shall be coordinated with those of the Commission, as well as with those of the EUSR for Central Asia. The EUSR shall

provide regular briefings to Member States' missions and the Union's delegations.

2. In the field, close liaison shall be maintained with the Union and Member States' Heads of Mission. They shall make best efforts to assist the EUSR in the implementation of the mandate. The EUSR shall provide the Head of the EU Police Mission in Afghanistan (EUPOL AFGHANISTAN) with local political guidance. The EUSR and the Civilian Operation Commander shall consult each other as required. The EUSR shall also liaise with other international and regional actors in the field.'

Article 2

The EUSR shall present the HR, the Council and the Commission with a mandate implementation report at the end of the mandate.

Article 3

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

It shall apply from 1 March 2010.

Article 4

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

Done at Brussels, 25 February 2010.

For the Council

The President

A. PÉREZ RUBALCABA

COUNCIL DECISION 2010/121/CFSP**of 25 February 2010****amending the Annex to Common Position 2004/161/CFSP renewing restrictive measures against Zimbabwe**

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Article 1

The person mentioned in the Annex to this Decision shall be included in the list set out in the Annex to Common Position 2004/161/CFSP.

Whereas:

(1) On 19 February 2004, the Council adopted Common Position 2004/161/CFSP renewing restrictive measures against Zimbabwe ⁽¹⁾.

Article 2

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

(2) Council Decision 2010/92/CFSP ⁽²⁾, adopted on 15 February 2010, extended the restrictive measures provided for in Common Position 2004/161/CFSP until 20 February 2011.

Article 3

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

(3) The Council considers that one person should be added to the list of persons and entities subject to the restrictive measures provided for in Common Position 2004/161/CFSP. The list set out in the Annex to Common Position 2004/161/CFSP should be amended accordingly,

Done at Brussels, 25 February 2010.

For the Council

The President

M. Á. MORATINOS

⁽¹⁾ OJ L 50, 20.2.2004, p. 66.

⁽²⁾ OJ L 41, 16.2.2010, p. 6.

ANNEX

The person referred to in Article 1

n° 57 Jangara (a.k.a. Changara), Thomsen

COMMISSION DECISION**of 25 February 2010****amending, for the purposes of adapting to scientific and technical progress, the Annex to Directive 2002/95/EC of the European Parliament and of the Council as regards an exemption for an application of cadmium***(notified under document C(2010) 1034)***(Text with EEA relevance)**

(2010/122/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment ⁽¹⁾, and in particular Article 5(1)(b) thereof,

Whereas:

- (1) Directive 2002/95/EC requires the Commission to make whatever amendments which are necessary to adapt to scientific and technical progress the list of applications exempted from the requirements of Article 4(1) of that Directive.
- (2) It is not yet technically practicable to substitute cadmium in colour-converting II-VI LEDs without seriously deteriorating the performance. Certain materials and components containing cadmium should therefore be exempted from the prohibition. However, research on cadmium-free technology is in progress and substitutes should become available within the next four to five years at the latest.

- (3) Directive 2002/95/EC should therefore be amended accordingly.

- (4) Pursuant to Article 5(2) of Directive 2002/95/EC, the Commission has consulted the relevant parties.

- (5) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 18 of Directive 2006/12/EC of the European Parliament and of the Council ⁽²⁾,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Directive 2002/95/EC is amended as set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 25 February 2010.

For the Commission
Janez POTOČNIK
Member of the Commission

⁽¹⁾ OJ L 37, 13.2.2003, p. 19.

⁽²⁾ OJ L 114, 27.4.2006, p. 9.

ANNEX

In the Annex to Directive 2002/95/EC, the following point 39 is added:

- '39. Cadmium in colour-converting II-VI LEDs ($< 10 \mu\text{g Cd per mm}^2$ of light-emitting area) for use in solid state illumination or display systems until 1 July 2014.'
-

COMMISSION DECISION**of 25 February 2010****adjusting the weightings applicable from 1 February 2009, 1 March 2009, 1 April 2009, 1 May 2009 and 1 June 2009 to the remuneration of officials, temporary staff and contract staff of the European Communities serving in third countries**

(2010/123/EU)

THE EUROPEAN COMMISSION,

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

Having regard to the Staff Regulations of officials of the European Communities and the conditions of employment of other servants of the Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾, and in particular the second paragraph of Article 13 of Annex X thereto,

Whereas:

- (1) Pursuant to the first paragraph of Article 13 of Annex X to the Staff Regulations, the weightings to be applied from 1 July 2008 to the remuneration of officials, temporary staff and contract staff of the European Communities serving in third countries payable in the currency of their country of employment were laid down by Council Regulation (EC) No 613/2009 ⁽²⁾.
- (2) Some of these weightings need to be adjusted in accordance with the second paragraph of Article 13 of Annex X to the Staff Regulations, with effect from 1 February, 1 March, 1 April, 1 May and 1 June 2009, since the statistics available to the Commission show that in certain third countries the variation in the cost of living measured on the basis of the weighting and the corresponding exchange rate has exceeded 5 % since weightings were last laid down,

HAS ADOPTED THIS DECISION:

Article 1

The weightings applied to the remuneration of officials, temporary staff and contract staff of the European Communities serving in third countries, payable in the currency of the country of employment, shall be adjusted for certain countries as shown in the Annex hereto. It contains five monthly tables showing which countries are affected and the dates of application for each one (1 February, 1 March, 1 April, 1 May and 1 June 2009).

The exchange rates used for the calculation of this remuneration shall be established in accordance with the detailed rules for the implementation of the Financial Regulation and correspond to the dates of application of the weightings.

Article 2

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

Done at Brussels, 25 February 2010.

For the Commission,
On behalf of the President,
Catherine ASHTON
Vice-President

⁽¹⁾ OJ L 56, 4.3.1968, p. 1.

⁽²⁾ OJ L 181, 14.7.2009, p. 1.

ANNEX

FEBRUARY 2009

Place of employment	Economic parity February 2009	Exchange rate February 2009 (*)	Weightings February 2009 (**)
Azerbaijan ⁽¹⁾	0,9962	1,0578	94,2
Belarus ⁽²⁾	2 192	3 495,42	62,7
Chile	478,2	810,48	59,0
China	8,502	8,9653	94,8
Colombia	2 300	2 990,32	76,9
India	35,8	64,075	55,9
Indonesia (Jakarta)	10 540	14 913,8	70,7
Kazakhstan (Almaty) ⁽¹⁾	150,2	161,79	92,8
Kenya	78,23	103,009	75,9
Lesotho	6,198	12,9979	47,7
Liberia	84,28	84,6997	99,5
Pakistan	48,48	101,889	47,6
Sierra Leone	3 356	3 998,59	83,9
Trinidad and Tobago	6,291	8,10395	77,6
Zambia ⁽¹⁾	3 331	6 548,29	50,9

(*) 1 EURO = units of national currency (except for Cuba, Ecuador and El Salvador, where US dollars are used instead).

(**) Brussels = 100 %.

⁽¹⁾ The weighting for this place is adjusted twice: for February 2009 and for June 2009.

⁽²⁾ The weighting for this place is adjusted twice: for February 2009 and for May 2009.

MARCH 2009

Place of employment	Economic parity March 2009	Exchange rate March 2009 (*)	Weightings March 2009 (**)
Croatia ⁽¹⁾	7,21	7,386	97,6
United States (New York)	1,367	1,2782	106,9
Ethiopia	12,93	14,289	90,5
Kazakhstan (Astana)	140,3	191,460	73,3
Papua New Guinea ⁽¹⁾	3,265	3,47947	93,8
Syria	50,24	60,97	82,4
Venezuela ⁽²⁾	2,496	2,74813	90,8

(*) 1 EURO = units of national currency (except for Cuba, Ecuador and El Salvador, where US dollars are used instead).

(**) Brussels = 100 %.

⁽¹⁾ The weighting for this place is adjusted twice: for March 2009 and for June 2009.

⁽²⁾ The weighting for this place is adjusted twice: for March 2009 and for May 2009.

APRIL 2009

Place of employment	Economic parity April 2009	Exchange rate April 2009 (*)	Weightings April 2009 (**)
South Africa	6,162	12,8433	48,0
Belize	1,902	2,5947	73,3
Cameroon ⁽¹⁾	678,9	655,957	103,5
Eritrea	10,43	20,8173	50,1
United States (Washington)	1,264	1,3193	95,8
Ghana	1,045	1,859	56,2
Israel	5,915	5,5288	107,0
Morocco ⁽¹⁾	9,319	11,2015	83,2
Nigeria	176,4	196,571	89,7
Congo, Democratic Republic of ⁽¹⁾	1 185	1 100,11	107,7

(*) 1 EURO = units of national currency (except for Cuba, Ecuador and El Salvador, where US dollars are used instead).

(**) Brussels = 100 %.

⁽¹⁾ The weighting for this place is adjusted twice: for April 2009 and for June 2009.

MAY 2009

Place of employment	Economic parity May 2009	Exchange rate May 2009 (*)	Weightings May 2009 (**)
Saudi Arabia	4,62	4,8515	95,2
Belarus ⁽¹⁾	2 348	3 735,22	62,9
Haiti	66,21	55,0576	120,3
Kyrgyzstan	53,52	56,48	94,8
Lebanon	1 795	1 999,85	89,8
New Caledonia	157	119,332	131,6
Serbia	61,49	94,1782	65,3
Venezuela ⁽²⁾	2,64	2,85219	92,6

(*) 1 EURO = units of the national currency (except for Cuba, Ecuador and El Salvador, where US dollars are used instead).

(**) Brussels = 100 %.

⁽¹⁾ The weighting for this place is adjusted twice: for February 2009 and for May 2009.

⁽²⁾ The weighting for this place is adjusted twice: for March 2009 and for May 2009.

JUNE 2009

Place of employment	Economic parity June 2009	Exchange rate June 2009 (*)	Weightings June 2009 (**)
Algeria	80,51	100,892	79,8
Azerbaijan ⁽¹⁾	1,048	1,11513	94,0
Bosnia and Herzegovina (Sarajevo)	1,437	1,95583	73,5
Cameroon ⁽²⁾	644,4	655,957	98,2
Congo (Brazzaville)	794	655,957	121,0
Croatia ⁽³⁾	6,843	7,3305	93,3
Georgia	2,06	2,2857	90,1
Guinea-Bissau	712,6	655,957	108,6
Fiji	1,78	2,91971	61,0
Solomon Islands	10,23	10,9681	93,3
Kazakhstan (Almaty) ⁽¹⁾	159,4	209,7	76,0
Morocco ⁽²⁾	8,821	11,2615	78,3
Mexico	11,97	18,3176	65,3
Nicaragua	15,79	28,0214	56,3
Norway	11,26	8,9615	125,6
Uzbekistan	1 053	2 032,12	51,8
Papua New Guinea ⁽³⁾	3,456	3,87597	89,2
Paraguay	4 748	7 003,48	67,8
Congo, Democratic Republic of ⁽²⁾	1 277	1 083,84	117,8
Southern Sudan (Juba)	3,108	3,37579	92,1
Switzerland (Geneva)	1,692	1,5117	111,9
Tajikistan	3,498	6,04787	57,8
Turkey	1,654	2,1775	76,0
Ukraine	8,155	10,6411	76,6
Uruguay	23,59	32,7002	72,1
Yemen	187,9	279,175	67,3
Zambia ⁽¹⁾	3 540	7 126,41	49,7

(*) 1 EURO = units of national currency (except for Cuba, Ecuador and El Salvador, where US dollars are used instead).

(**) Brussels = 100 %.

⁽¹⁾ The weighting for this place is adjusted twice: for February 2009 and for June 2009.

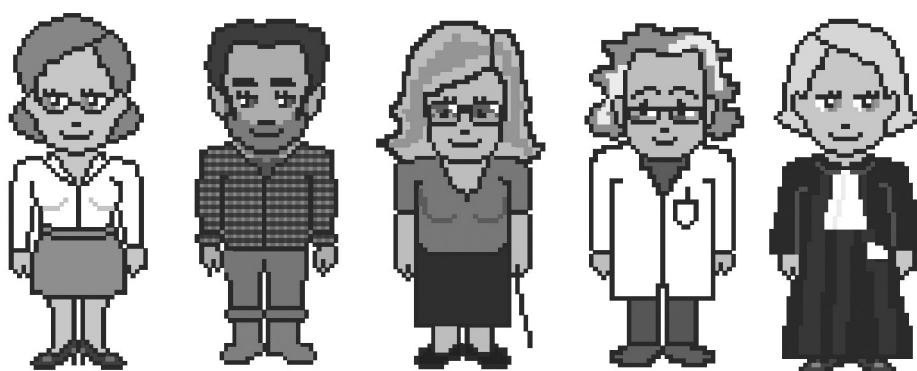
⁽²⁾ The weighting for this place is adjusted twice: for April 2009 and for June 2009.

⁽³⁾ The weighting for this place is adjusted twice: for March 2009 and for June 2009.

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