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I

(Legislative acts)

DECISIONS

COUNCIL DECISION No 189/2014/EU

of 20 February 2014

authorising France to apply a reduced rate of certain indirect taxes on 'traditional' rum produced in Guadeloupe, French Guiana, Martinique and Réunion and repealing Decision 2007/659/EC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament [1],

Acting in accordance with a special legislative procedure,

Whereas:

(1) Council Decision 2007/659/EC [2] authorised France to apply to 'traditional' rum produced in Guadeloupe, French Guiana, Martinique and Réunion ('the four outermost regions concerned'), and sold on the French mainland a reduced rate of excise duty which may be lower than the minimum rate of excise duty set by Council Directive 92/84/EEC [3] but not more than 50 % lower than the standard national excise duty on alcohol. As of 1 January 2011, the reduced rate of excise duty is limited to an annual quota of 120 000 hectolitres of pure alcohol (hlpa). That derogation expired on 31 December 2013.

(2) On 12 March 2013, the French authorities asked the Commission to submit a proposal for a Council decision extending the derogation set out in Decision 2007/659/EC, under the same conditions, for seven years, until 31 December 2020. That request was supplemented by the submission of additional information and amended concerning the different French taxes to be covered by the proposed decision, on 3 July and 2 August 2013 respectively.

(3) The French authorities also informed the Commission that France amended as of 1 January 2012 the national legislation on the '*cotisation sur les boissons alcooliques*', also known as '*vignette sécurité sociale*' (VSS), which is a contribution levied for the National Sickness Insurance Fund on alcoholic beverages sold in France to counter the health risks involved in immoderate use of this product and that is levied in addition to the national excise duty. In particular, the tax base was changed from EUR 160 per hectolitre to EUR 533 per hlpa, and a limitation of the amount of the VSS was introduced which was linked to the applicable excise duty.

(4) In the context of the request by the French authorities for an extension of the derogation set out in Decision 2007/659/EC until 31 December 2020, the French authorities asked the Commission to include as of 1 January 2012 the VSS in the list of taxes for which a lower rate can be applied for 'traditional' rum produced in the four outermost regions concerned.

(5) It is more appropriate to adopt a new Decision on a derogation covering both taxes: the differentiation of the excise duty as set out in Directive 92/84/EEC and the VSS, instead of extending the derogation set out in Decision 2007/659/EC.

(6) Given the small scale of the local market, the distilleries in the four outermost regions concerned can develop their activities only if they have sufficient access to the market in the French mainland, which is the main outlet for their rum (71 %). The difficulty for 'traditional' rum to compete on the Union market, in addition to the specific structural social and economic situation of

[1] Opinion of 16 January 2014 (not yet published in the Official Journal).

[2] Council Decision 2007/659/EC of 9 October 2007 authorising France to apply a reduced rate of excise duty on 'traditional' rum produced in Guadeloupe, French Guiana, Martinique and Réunion (OJ L 270, 13.10.2007, p. 12).

[3] Council Directive 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages (OJ L 316, 31.10.1992, p. 29).

these outermost regions, which is compounded by the special constraints referred to in Article 349 of the Treaty on the Functioning of the European Union (TFEU), is attributable to two parameters: higher production costs and higher taxes per bottle as the 'traditional' rum is typically marketed at higher levels of alcohol strength and in bigger bottles.

(7) Production costs of the cane-sugar-rum value chain in the four outermost regions concerned are higher than in other regions of the world. Wage costs in particular are higher, as the French social legislation is applicable in the four outermost regions concerned. Those outermost regions are also subject to Union environment and safety standards, which entail considerable investments and costs which are not directly related to productivity, even if part of those investments is covered by the Union structural funds. Furthermore, distilleries in the four outermost regions concerned are smaller than distilleries of international groups. This generates higher production costs per unit of output. According to the French authorities, all of those direct additional production costs, including freight and insurance, globally correspond to about 12 % of the French excise duty applicable normally to strong alcohols in 2012.

(8) 'Traditional' rum sold in French mainland is typically marketed in bigger bottles (60 % of rum is sold in bottles containing 1 litre) and at higher levels of alcohol (ranging from 40° to 59°) than competing rums, which are typically marketed in bottles of 0,7 litres at 37,5°. The higher levels of alcohol content trigger in turn higher excise duties, a higher VSS and, in addition, a higher value added tax (VAT) per litre of rum sold. Thus, the cumulative additional costs, namely higher production costs, higher freight cost and higher taxes (excise duty and VAT), correspond to between 40 % and 50 % of the French excise duty applicable normally on strong alcohols in 2012. Moreover, the change in the basis for calculating the VSS from EUR 160 per hectolitre to EUR 533 per hlpa as of 1 January 2012 would have had, including VAT, an additional adverse impact on the price of 'traditional' rum, which is marketed at higher levels of alcohol corresponding to about 10 % of the standard excise rate. In order to offset this additional adverse effect, closely linked to the specific structural social and economic situation of the four outermost regions concerned, which is compounded by the special constraints referred to in Article 349 TFEU, a reduction of the VSS rate should be also introduced so that it benefits the 'traditional' rum of the four outermost regions concerned.

(9) The fiscal advantage covering both the harmonised excise duties and the VSS to be authorised needs to remain proportionate so as not to undermine the integrity and the coherence of the Union legal order, including safeguarding undistorted competition in the internal market and state aid policies.

(10) The extra costs stemming from the decade-long marketing practice of selling 'traditional' rum at higher levels of alcohol and, thus, triggering higher taxes should therefore also be taken into account.

(11) In 2012, France applied an excise duty of EUR 903 per hlpa to 'traditional' rum, which corresponds to 54,4 % of the standard excise rate. It also applied a VSS of EUR 361,20 per hlpa, which corresponds to 67,8 % of the standard rate of VSS. Both reductions taken together correspond to a tax advantage of EUR 928,80 per hlpa, or a tax advantage compared to the aggregated standard rates (excise duty and VSS) of 42,8 %.

(12) Decision 2007/659/EC authorised France to reduce the national excise duty applicable on 'traditional' rum by up to 50 % of the standard national excise duty on alcohol. That Decision did not include the reduced rate of the VSS for 'traditional' rum which was only introduced as a compensatory measure for the additional burden created for that rum by the reform of the VSS system as of 1 January 2012.

(13) It is necessary to remedy that situation by applying the same principles that had been applied to a derogation from Article 110 TFEU for harmonised excise duties also to the VSS. At the same time, the tax advantage that can be granted should be capped from 1 January 2014 at a maximum percentage of the standard rates per hlpa of the harmonised excise duty on strong alcohol and of the VSS.

(14) A new derogation should be granted for seven years, from 1 January 2014 to 31 December 2020.

(15) France should submit a mid-term report to enable the Commission to assess whether the reasons justifying the derogation still exist, whether the fiscal advantage granted by France is still proportionate and whether alternative measures to a tax derogation system which are also sufficient to support a competitive cane-sugar-rum value chain can be envisaged, taking into account their international dimension.

(16) Decision 2007/659/EC could not initially take into account the new circumstances after the reform of the VSS system. Exceptionally, and taking into account the mentioned specific structural social and economic situation of the four outermost regions concerned, it is, therefore, justified to apply the subject reduced VSS rate regime as of 1 January 2012.

(17) This Decision is without prejudice to the possible application of Articles 107 and 108 TFEU.

(18) Therefore, Decision 2007/659/EC should be repealed,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 110 TFEU, France is authorised to extend the application on the French mainland, to 'traditional' rum produced in Guadeloupe, French Guiana, Martinique and Réunion, of a rate of excise duty lower than the full rate for alcohol set by Article 3 of Directive 92/84/EEC and to apply a rate of the levy called '*cotisation sur les boissons alcooliques*' (VSS) lower than the full rate applicable according to the French national legislation.

Article 2

The derogation set out in Article 1 shall be limited to rum as defined in point 1(f) of Annex II to Regulation (EC) No 110/2008 of the European Parliament and of the Council [1] produced in Guadeloupe, French Guiana, Martinique and Réunion from sugar cane harvested at the place of manufacture, having a content of volatile substances other than ethyl and methyl alcohol equal to or exceeding 225 grams per hectolitre of pure alcohol and an alcoholic strength by volume of 40° or more.

Article 3

1. The reduced rates of excise duty and of VSS referred to in Article 1 and applicable to the rum referred to in Article 2 shall be confined to an annual quota of 120 000 hectolitres of pure alcohol.

2. The reduced rates of excise duty and of VSS referred to in Article 1 of this Decision may each be lower than the minimum rate of excise duty on alcohol set by Directive 92/84/EEC, but shall not be more than 50 % lower than the full rate for alcohol set in accordance with Article 3 of Directive 92/84/EEC or the full rate for alcohol for the VSS.

3. The cumulative fiscal advantage authorised in accordance with paragraph 2 of this Article shall not be more than 50 % of the full rate for alcohol set in accordance with Article 3 of Directive 92/84/EEC.

Article 4

By 31 July 2017, France shall submit a report to the Commission to enable it to assess whether the reasons justifying the derogation still exist and whether the fiscal advantage granted by France has remained and is expected to remain proportionate and sufficient to support a competitive cane-sugar-rum value chain in Guadeloupe, French Guiana, Martinique and Réunion.

Article 5

This Decision shall apply from 1 January 2014 until 31 December 2020, except for Article 1 and Article 3(1) and (2) which shall apply from 1 January 2012.

Article 6

1. Decision 2007/659/EC is hereby repealed.

2. References to that repealed Decision shall be construed as references to this Decision.

Article 7

This Decision is addressed to the French Republic.

Done at Brussels, 20 February 2014.

For the Council
The President
K. HATZIDAKIS

[1] Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 11 February 2014

on the signing, on behalf of the European Union, of the Agreement between the European Union and the Republic of Azerbaijan on the readmission of persons residing without authorisation

(2014/107/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(3), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) On 19 December 2011, the Council authorised the Commission to open negotiations with the Republic of Azerbaijan on an Agreement between the European Union and the Republic of Azerbaijan on the readmission of persons residing without authorisation ('the Agreement'). The negotiations were successfully concluded and the Agreement was initialled on 29 July 2013.

(2) The Agreement should be signed on behalf of the Union, subject to its conclusion at a later date.

(3) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application.

(4) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union of the Agreement between the European Union and the Republic of Azerbaijan on the readmission of persons residing without authorisation is hereby authorised, subject to the conclusion of the said Agreement [1].

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 3

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

Done at Brussels, 11 February 2014.

For the Council

The President

E. VENIZELOS

[1] The text of the Agreement will be published together with the decision on its conclusion.

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) No 190/2014

of 24 February 2014

amending Implementing Regulation (EU) No 461/2013 imposing a definitive countervailing duty on imports of certain polyethylene terephthalate (PET) originating in India following an expiry review pursuant to Article 18 of Regulation (EC) No 597/2009

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community [1] ('the basic Regulation'), and in particular Article 13 thereof,

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

Whereas:

A. **PREVIOUS PROCEDURE**

(1) By Regulation (EC) No 2603/2000 [2], the Council imposed countervailing measures on imports of polyethylene terephthalate ('PET') originating in India. Following an expiry review, those measures have been last maintained by Council Implementing Regulation (EU) No 461/2013 [3].

(2) By Regulation (EC) No 2604/2000 [4], the Council imposed anti-dumping measures on imports of PET originating in India. Following an expiry review, those measures have been last maintained by Council Regulation (EC) No 192/2007 [5]. On 24 February 2012, the Commission initiated a subsequent expiry review. By Implementing Decision 2013/226/EU [6], the Council rejected the Commission's proposal for a Council implementing regulation maintaining the anti-dumping duty on imports of PET originating in, inter alia, India and, thus, the anti-dumping measures expired.

(3) In 2000, by Decision 2000/745/EC [7], the Commission accepted price undertakings offered in connection with both the anti-dumping and anti-subsidy proceedings from, inter alia, the Indian companies Pearl Engineering Polymers Limited ('Pearl') and Reliance Industries Limited ('Reliance'). In 2005, by Decision 2005/697/EC [8], the Commission accepted an undertaking from the Indian

[1] OJ L 188, 18.7.2009, p. 93.

[2] Council Regulation (EC) No 2603/2000 of 27 November 2000 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain polyethylene terephthalate originating in India, Malaysia and Thailand and terminating the anti-subsidy proceeding concerning imports of certain polyethylene terephthalate originating in Indonesia, the Republic of Korea and Taiwan (OJ L 301, 30.11.2000, p. 1).

[3] Council Implementing Regulation (EU) No 461/2013 of 21 May 2013 imposing a definitive countervailing duty on imports of certain polyethylene terephthalate (PET) originating in India following an expiry review pursuant to Article 18 of Regulation (EC) No 597/2009 (OJ L 137, 23.5.2013, p. 1).

[4] Council Regulation (EC) No 2604/2000 of 27 November 2000 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain polyethylene terephthalate originating in India, Indonesia, Malaysia, the Republic of Korea, Taiwan and Thailand (OJ L 301, 30.11.2000, p. 21).

[5] Council Regulation (EC) No 192/2007 of 22 February 2007 imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating in India, Indonesia, Malaysia, the Republic of Korea, Thailand and Taiwan following an expiry review and a partial interim review pursuant to Article 11(2) and Article 11(3) of Regulation (EC) No 384/96 (OJ L 59, 27.2.2007, p. 1).

[6] Council Implementing Decision 2013/226/EU of 21 May 2013 rejecting the proposal for a Council implementing regulation imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating in India, Taiwan and Thailand following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 and terminating the expiry review proceeding concerning imports of certain polyethylene terephthalate originating in Indonesia and Malaysia, in so far as the proposal would impose a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating in India, Taiwan and Thailand (OJ L 136, 23.5.2013, p. 12).

[7] Commission Decision 2000/745/EC of 29 November 2000 accepting undertakings offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of certain polyethylene terephthalate (PET) originating in India, Indonesia, Malaysia, the Republic of Korea, Taiwan and Thailand (OJ L 301, 30.11.2000, p. 88).

[8] Commission Decision 2005/697/EC of 12 September 2005 amending Decision 2000/745/EC accepting undertakings offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of polyethylene terephthalate (PET) originating, inter alia, in India (OJ L 266, 11.10.2005, p. 62).

company South ASEAN Petrochem Limited which, as a result of a merger, changed its name to Dhunseri Petrochem & Tea Limited ('Dhunseri') [1].

B. **WITHDRAWAL OF UNDERTAKINGS AND AMENDMENT OF IMPLEMENTING REGULATION (EU) No 461/2013**

(4) By Implementing Decision 2014/109/EU [2], the Commission withdrew the acceptance of the undertakings offered by the three Indian companies: Dhunseri, Reliance and Pearl. Therefore, Article 1(4) and Article 2 of Implementing Regulation (EU) No 461/2013, together with the Annex to that Regulation, should be repealed. Accordingly, the definitive countervailing duties imposed by Article 1(2) of Implementing Regulation (EU) No 461/2013 should apply to imports of PET produced by the companies Dhunseri, Reliance and Pearl (TARIC additional code A585 for Dhunseri, TARIC additional code A181 for Reliance and TARIC additional code A182 for Pearl),

HAS ADOPTED THIS REGULATION:

Article 1

1. Article 1(4) and Article 2 of Implementing Regulation (EU) No 461/2013 and the Annex to that Regulation are repealed.

2. Article 1(5) of Implementing Regulation (EU) No 461/2013 shall be renumbered Article 1(4).

3. Article 3 of Implementing Regulation (EU) No 461/2013 shall be renumbered Article 2.

Article 2

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

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

Done at Brussels, 24 February 2014.

For the Council
The President
K. ARVANITOPOULOS

[1] Notice concerning the countervailing measures in force in respect of imports into the Union of certain polyethylene terephthalate originating in India: change of the name of a company subject to an individual countervailing duty (OJ C 335, 11.12.2010, p. 7).

[2] Commission Implementing Decision 2014/109/EU of 4 February 2014 repealing Decision 2000/745/EC accepting undertakings offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of certain polyethylene terephthalate (PET) originating, inter alia, in India (see page 35 of this Official Journal).

COUNCIL IMPLEMENTING REGULATION (EU) No 191/2014

of 24 February 2014

imposing a definitive anti-dumping duty on imports of certain manganese dioxides originating in the Republic of South Africa following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009

THE COUNCIL OF THE EUROPEAN UNION,

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

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

Having regard to the proposal from the European Commission ('the Commission') after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Measures in force

(1) Following an anti-dumping investigation ('the original investigation'), the Council imposed, by Council Regulation (EC) No 221/2008 [2], a definitive anti-dumping duty of 17,1 % on imports of electrolytic manganese dioxides (i.e. manganese dioxides produced through an electrolytic process) not heat-treated after the electrolytic process, currently falling within CN code ex 2820 10 00 originating in the Republic of South Africa ('South Africa') ('the anti-dumping measures in force').

2. Request for an expiry review

(2) Following the publication of a notice [3] of impending expiry of the anti-dumping measures in force, the Commission received, on 11 December 2012, a request for the initiation of an expiry review of those measures under Article 11(2) of the basic Regulation. The request was lodged by the companies Cegasa Internacional SA and Tosoh Hellas A.I.C. ('the applicants'), the only two Union producers of EMD.

(3) The request was based on the grounds that the expiry of the anti-dumping measures in force would be likely to result in a recurrence of dumping injurious to the Union industry.

3. Initiation of an expiry review

(4) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 12 March 2013 the initiation of an expiry review under Article 11(2) of the basic Regulation, by a notice published in the *Official Journal of the European Union* [4], ('notice of initiation').

4. Investigation

4.1. *Review investigation period and the period considered*

(5) The investigation of likelihood of recurrence of dumping covered the period from 1 January 2012 to 31 December 2012 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2009 to the end of the review investigation period ('the period considered').

4.2. *Parties concerned by the investigation*

(6) The Commission officially advised the applicants, the exporting producer in South Africa, importers, users in the Union known to be concerned and their associations, and the representatives of the exporting country concerned, of the initiation of the expiry review.

(7) 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. All interested parties who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(8) In view of the limited number of interested parties which made themselves known, sampling of interested parties was not necessary.

(9) Questionnaire replies were received from the exporting producer in South Africa, the two Union producers and two users belonging to the same group of related companies.

[1] OJ L 343, 22.12.2009, p. 51.
[2] Council Regulation (EC) No 221/2008 of 10 March 2008 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain manganese dioxides originating in South Africa (OJ L 69, 13.3.2008, p. 1).
[3] OJ C 180, 21.6.2012, p. 15.
[4] OJ C 72, 12.3.2013, p. 8.

(10) The Commission sought and verified all the information it deemed necessary for a determination of the likelihood of recurrence of dumping and resulting injury and for the determination of the Union interest. Verification visits were carried out at the premises of the following companies:

(a) Union producers:

— Cegasa Internacional SA ('Cegasa'),

— Tosoh Hellas A.I.C ('THA');

(b) Exporting producers in South Africa:

— Delta E.M.D. (Pty) Ltd;

(c) Users:

— Panasonic Energy Belgium NV.

(11) On 29 October 2013, the Commission disclosed to all interested parties the essential facts and considerations on the basis of which it intended to propose maintaining the anti-dumping measures in force. Again, parties were given an opportunity to provide comments and those who so requested were granted a hearing in the presence of the Hearing Officer. The comments made by the interested parties were considered by the Commission and its responses are given below.

B. PRODUCT CONCERNED AND LIKE PRODUCT

(12) The product concerned by this review is the same as the one defined in Regulation (EC) No 221/2008, namely electrolytic manganese dioxides (i.e. manganese dioxides produced through an electrolytic process) not heat-treated after the electrolytic process ('the product under review' or 'EMD'), originating in the Republic of South Africa, currently falling within CN code ex 2820 10 00. It comprises two main types, carbon zinc grade EMD and alkaline grade EMD.

(13) The review investigation confirmed that, as in the original investigation, the product under review imported into the Union market and the products manufactured and sold by the exporting producer on their domestic market, as well as those manufactured and sold in the Union by the Union Industry ('the like product'), have the same basic physical and chemical characteristics and uses. Therefore, these products are considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF RECURRENCE OF DUMPING

1. Preliminary remarks

(14) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the existing measures would be likely to lead to a recurrence of dumping.

2. Dumping of imports during the RIP

(15) Imports to the Union from South Africa dropped to almost zero after the imposition of measures, with only a very small quantity exported in 2010, in 2011 and during the RIP. To assess whether the sole known exporting producer Delta EMD (Pty) Ltd. ('Delta') was exporting to the Union at dumped prices during the RIP, the Commission sent a questionnaire to Delta. It received a reply including data on domestic sales, exports to the Union and exports to other destinations. The reply provided was verified as detailed below.

2.1. *Normal value*

(16) In accordance with Article 2(2) of the basic Regulation, Delta's domestic sales were examined to see whether the total volume of sales of the like product to independent customers was representative in comparison with its total volume of export sales to the Union, i.e. whether the total volume of such sales represented at least 5 % of the total volume of export sales of the product under review to the Union.

(17) While the domestic sales of the product under review were representative there were no sales in the ordinary course of trade as Delta's domestic sales of EMD were unprofitable. Normal value was therefore constructed under Article 2(3) of the basic Regulation.

(18) This was done on the basis of the actual cost of production of EMD, to which a reasonable amount for selling, general and administrative expenses (SG&A) and for profit was added in accordance with Article 2(6) of the basic Regulation.

(19) The SG&A was calculated using Article 2(6)(c) of the basic Regulation, as Delta's sales were not in the ordinary course of trade and since both Article 2(6)(a) and (b) of that Regulation were not applicable given that respectively there are no other exporters or producers subject to the investigation, and Delta does not have any other sales of products of the same general category. Using the SG&A of the original investigation, which gave an almost identical percentage as the actual SG&A, was therefore considered a reasonable method.

(20) After disclosure, Delta requested the Commission to calculate the constructed normal value by expressing the SG&A calculated above as a percentage of cost of manufacturing rather than as a percentage of turnover. Given that all domestic sales were unprofitable, the use of turnover would result in inflated SG&A costs. The Commission accepted Delta's claim and when constructing normal value, the Commission added SG&A as a percentage of the cost of manufacturing per kg from this review investigation.

(21) Profit was also calculated using the same methodology as in the original investigation, i.e. on the basis of long-term lending commercial interest rates in South Africa during the RIP under Article 2(6)(c) of the basic Regulation. Delta does not sell other products on the domestic market, and there are no other known producers of EMD or other producers of products of the same general category in South Africa from whom profit data could be taken.

(22) After disclosure the Union industry requested that the Commission use sales to the USA to determine normal value, as they perform the function of sales on the domestic market, under Article 2(3) of the basic Regulation.

(23) This was rejected as normal value was constructed under Article 2(3) of the basic Regulation using the same methodology as in the original investigation, and therefore in line with Article 11(9) of that Regulation.

2.2. *Export price*

(24) The very small quantity of EMD exported to the Union during the RIP was sold directly to an unrelated importer in the Union. In accordance with Article 2(8) of the basic Regulation, the export price was taken as the price paid by the importer to Delta.

2.3. *Comparison*

(25) A comparison was made between the export price and the constructed normal value by taking account of the claimed and verified adjustments under Article 2(10) of the basic Regulation, namely freight costs, insurance, credit costs and handling charges on the export side. The normal value was constructed on an ex-works basis by removing freight charges and credit costs. The costs of packaging and technical assistance were not removed as they were already accounted for in the cost of manufacturing and therefore included in both the export price and the constructed normal value.

2.4. *Dumping margin*

(26) The EMD sold to the Union by Delta during the RIP was found not to have been dumped. However the quantity involved was extremely small and thus this finding could not be fully relied upon to establish likelihood of recurrence of dumping, should the measures lapse.

3. **Evidence of likelihood of recurrence of dumping**

(27) Since no conclusions could be drawn from the sale to the Union during the RIP, the Commission analysed whether there was evidence of likelihood of recurrence of dumping should the measure lapse. When doing so, the following elements were analysed: the export price from South Africa to other destinations, the production capacity and spare capacity in South Africa and the attractiveness of the Union market and other third markets.

3.1. *Exports from South Africa to other destinations*

(28) Delta produces both alkaline grade EMD and carbon zinc grade EMD, and given that there is a market in the Union for the alkaline grade EMD and also (to a smaller extent) carbon zinc grade EMD, the Commission examined the export price of both grades to third countries during the RIP. These sales were compared to the constructed normal value as calculated above, taking into account differences which affect price comparability.

(29) Sales of alkaline grade EMD to the USA, Delta's most important export market, accounted for roughly two-thirds of Delta's total exports during the RIP and were not dumped. However sales of alkaline grade EMD to other destinations (such as Thailand, Korea, China and Brazil), sold in smaller quantities, were found to be exported at dumped prices, with dumping margins ranging from 2 % to 21 %. In addition, when looking at the export sales of carbon zinc grade EMD to other destinations, mainly sold at low prices and low quantities, the dumping margins were higher, ranging from 13 % to 66 %.

(30) Following disclosure the Union industry claimed that the Commission should ignore the sales made to the USA during the RIP as the prices to that market were not an appropriate guide as to the likely price level of sales to the Union market should measures lapse.

(31) Delta, on the other hand, requested the Commission after disclosure to pay particular attention to the sales made to the USA, which represents a large majority of its alkaline grade exports and is the most comparable market to the Union.

(32) The Commission analysed all export sales to all destinations, calculated an average weighted export price of Delta's exports to all other non-EU destinations but also looked into great detail at export prices to individual third countries. When looking at the question of the likelihood of recurrence of dumping, all export sales to all destinations were found to be relevant, in particular in view of the significant price differences found on different export markets.

(33) The USA market has its own particular characteristics, allowing Delta to charge significantly higher prices there than elsewhere. In the USA demand significantly exceeds domestic supply. Also, high entry barriers exist for a large number of potential competitors as high anti-dumping duties are in force against imports from China and Australia.

(34) In these circumstances there is no reason why the Commission should base its findings only on the average export price or only examine export sales to one country instead of analysing all export sales to all destinations.

(35) Delta's price behaviour to other export markets than the Union shows that although their exports to their most important market (the USA) were not sold at dumped prices, sales to other destinations were dumped. Further indicators, as set out below, are therefore required to assess the likelihood of recurrence of dumping should the measures lapse.

3.2. *Production capacity and spare capacity in South Africa*

(36) Delta has spare capacity to produce EMD that could allow it to resume exports to the Union in some significant quantity should the measures lapse. Delta has estimated, and the Commission has confirmed, that this spare capacity was between 4 000 to 6 000 MT per year. This calculation takes into account electricity shortages which are frequent in South Africa and volumes of waste. Given some difficulty in maintaining quality levels with a manually controlled plant, the Commission conservatively estimates that between 2 000 to 3 000 MT per year would be alkaline grade EMD whereas the rest would be carbon zinc grade EMD. Both grades would however be suitable for the Union market. Whereas part of the carbon zinc grade EMD quantity might be absorbed by other third country markets, there are no indications that other third country markets or the domestic market could absorb the significant spare capacity of alkaline grade EMD.

(37) Delta stated during the verification that they are a long established 'top-up' supplier for their customers on the US market, whereby they fill the gap when domestic producers cannot produce enough. Delta's exports to the USA have been stable over the last four years, which suggests that there was no possibility for Delta to increase its sales to the USA. If it was possible to increase exports to the USA, Delta would have done so already in order to benefit from the higher prices that prevail on the US market and also from the increased economies of scale arising from producing higher quantities.

(38) Delta's sales to the Asian market were more focused on carbon zinc EMD. Delta's sales to Asia account for 50 % of all of Delta's carbon zinc EMD sales. China has domestic EMD producers and Delta's exports to China during the IP remained limited to the very small quantity of alkaline EMD. As currently EMD exports to Japan are subject to anti-dumping measures and due to the fact that Japan has domestic EMD producers, it is unlikely that this market would absorb Delta's spare capacity. Therefore it is unlikely that the Asian market could absorb Delta's spare capacity of alkaline EMD.

(39) Following disclosure, the Union industry commented that Delta's spare capacity was much higher than that given above, and pointed to several factors that would suggest this to be the case. They also stated that all of Delta's spare capacity could be used to produce alkaline grade EMD of a quality to be sold to the Union market at dumped prices.

(40) The Union industry also stated that Delta's exports to the USA would very likely diminish in the near future as one US producer had already announced increases in its production capacity and the very probable decrease in demand for EMD in the USA following the announced exit from the market of a user of EMD. In addition, the Union industry claimed that sales from South Africa to the USA after the end of the investigation period had already started to decline. This would mean that Delta potentially has additional quantities of alkaline EMD that would very likely be diverted to the Union market should measures lapse.

(41) Delta's plant, capacity and capacity to produce were verified by the Commission during the investigation. As stated above, in its calculations the Commission based itself on conservative calculations, in particular the conservative estimate of the split between alkaline and carbon zinc production based on using its spare capacity. Even with this conservative estimate, a significant spare capacity, in view of the consumption in the Union of the product concerned, that can be used to produce alkaline grade EMD, was established.

(42) As to the claim regarding the likely evolution of Delta's exports to the USA the evidence presented to the Commission suggests that these could come under pressure should USA EMD capacity continue to increase and demand continue to fall.

(43) After disclosure, one user argued that Delta's spare capacity is low, given that Delta had a market share of 60-70 % before measures were imposed. However, even by using a conservative estimate of Delta's spare capacity, if this spare capacity is used to export to the Union, Delta could easily significantly increase its market share without taking into account the possibility that exports to other destinations could be redirected to the Union. Such a development would result in a further increase of Delta's potential market share.

3.3. *Attractiveness of the Union market and other third markets*

(44) Delta has a long-standing and profitable sales channel to the USA and no evidence was found that would suggest that it would be in the interests of the company to deliberately redirect any of these sales to the Union. However, the spare capacity identified during the investigation, or at least a substantial part of it, could likely only be directed to the Union for the reasons mentioned in the recitals above. Moreover, this is so because the Union market is among the largest in the world. In addition, before the anti-dumping measures in force were imposed, the Union market had been very attractive for Delta as it had a market share of between 60-70 %.

(45) If Delta was to compete on price with the Union producers, then it would be forced to reduce its export prices and thus to sell at dumped prices to match the prices charged by one Union producer during the RIP. Delta could also redirect their exports of alkaline grade EMD that are currently sold to third countries (other than the USA) to the Union at dumped prices because the Union market is more attractive than other non-US markets due to its size and generally higher prices. Furthermore, if Delta in the future might have to reduce the quantities of EMD exported to the USA then the Union market would be the very likely destination of such additionally available quantities.

(46) Following disclosure, Delta commented that their pricing policy was to sell on the Union market only if it could achieve a profitable price.

(47) This may or may not be the case, but a profitable sale can still be a dumped one, if the export price remains lower than the normal value. In any case, no evidence could be provided to back up such a statement as Delta did not export significant quantities to the Union over the last five years. In addition, the Union industry claimed that the small quantities of EMD that were sold by Delta to the Union during the IP were done in order to maintain its certification with Union clients.

(48) Delta also commented that the average import price into the Union of EMD during 2012 was EUR 1 809 per MT, which was above their normal value, showing in Delta's view, that they could compete with other importers and not dump.

(49) However this average figure is made up of some extremely expensive imports from the USA, and some much cheaper imports from China. The imports from the USA could not be included in this comparison as the extremely high price level, up to three or four times the normal prices charged on the Union market, shed doubt on the reliability of these prices and/or the imported product. If Delta was to compete on price with the Chinese imports, at around EUR 1 200 per MT, then Delta would be dumping on the Union market.

4. **Conclusion on the likelihood of recurrence of dumping**

(50) Given the above, there is a likelihood that if the measures were to lapse, dumping would reoccur. Alkaline grade EMD is the product type manufactured by Delta which would most likely be sold to the Union should measures lapse as this was the product type that was exported by Delta in the past. Also currently most demand in the Union is still for alkaline grade EMD. The investigation showed that sales of alkaline grade EMD to destinations such as South Korea, China and Brazil were found to be exported at dumped prices, with dumping margins from 2 % to 21 %.

(51) In addition, Delta's spare capacity is of a significant quantity in comparison to the Union consumption during the RIP. If this capacity was used to export to the Union and to compete on price with the Union producers or on price with the major imports from third countries, then there is a strong likelihood that such exports would be made at dumped prices.

D. DEFINITION OF THE UNION INDUSTRY

(52) During the RIP, the like product was produced by two producers in the Union, THA and Cegasa, who cooperated fully in the investigation. In the original investigation, Cegasa, which at that time did not produce for the open market but only for captive use, was not a complainant and did not cooperate but did not oppose the investigation.

(53) Following disclosure, an interested party questioned the admissibility of Cegasa as applicant in the expiry review since it was not a complainant in the original investigation, was not producing for the open market and thus was not experiencing injury at that time. This claim was rejected as a request for an expiry review must be lodged by or on behalf of Union producers but not necessarily by (only) the original complainant(s).

(54) The two Union producers account for all EMD production in the Union, and constitute the 'Union industry' within the meaning of Articles 4(1) and 5(4) of the basic Regulation.

(55) For the purpose of the injury analysis, due to cooperation of the entire Union industry, all injury indicators have been established at the microeconomic levels. To protect confidentiality, all data are presented in indexed form or given as ranges.

E. SITUATION ON THE UNION MARKET

1. Consumption in the Union market

(56) Union consumption was established on the basis of (i) the verified sales volumes of the Union industry on the Union market, (ii) verified import volumes from the sole South African producer, and (iii) imports from other countries based on Eurostat data.

(57) Union consumption of EMD remained stable between 2009 and the RIP. It increased in 2010 and in 2011, but in 2012 it went back to the levels of 2009.

Table 1

	2009	2010	2011	RIP
Index (2009 = 100)	100	102	108	100

2. Imports from South Africa

2.1. *Volume and market share*

(58) Following imposition of measures, imports from South Africa virtually ceased.

Table 2

	2009	2010	2011	RIP
Volume of imports subject to measures from South Africa	100	2	3	1
Market share of imports subject to measures from South Africa	100	2	4	1

2.2. *Prices and undercutting*

(59) The very few sales of EMD from South Africa to the Union during the RIP were not undercutting the Union industry prices. However, in view of their very small volume, they cannot be relied upon to draw any meaningful conclusion.

(60) A comparison was therefore also made between the prices of EMD produced and sold by the Union industry and those of EMD produced in South Africa and sold to the rest of the world, based on two scenarios; including and excluding sales to the USA. The reason for carrying out an analysis excluding Delta's export price to the USA was based on the particular market situation in the USA resulting in very high prices as compared to Delta's export prices to other countries (see recitals above).

(61) The comparison showed that, during the RIP, sales from South Africa to the rest of the world were not undercutting the Union industry's prices if sales to the USA were taken into account, but were undercutting the Union industry's prices if sales to the USA were excluded. In addition, excluding the sales to the USA, Delta's export prices were also underselling the Union industry's prices.

(62) Following disclosure, the Union industry maintained that Delta's prices to the USA are not indicative of its future pricing to the Union and that due to structural differences between the Union and the US market, such prices should be disregarded. On the other hand, Delta reiterated that the US market is a mature EMD market where domestic producers and importers compete freely and where there are many users, including users which are also present in the Union. As a consequence, Delta's sales to the USA should not be excluded. In addition, Delta considered that for the purpose of underselling calculations, the Commission should have not used the target profit achieved by the Union industry in the absence of dumped imports in the original investigation.

(63) In the present case where imports from the country concerned virtually ceased following imposition of original measures, the investigating authority has to carry out a forward-looking analysis based on a number of reasonable assumptions, including the likely price at which Delta would sell its EMD in the Union should the anti-dumping measures in force be allowed to lapse.

(64) It is an undisputed fact that each EMD market (USA, EU, Asia) is different and EMD producers apply different pricing strategies bearing in mind not only their costs of production but also the production capacity in the target country, the need to (re)gain market shares and the local conditions of competition. It is also an undisputed fact that Delta is pricing its EMD sales to the US market significantly higher than in other markets. Therefore, it is expected that Delta's future prices to the Union will not be determined by its current prices to the USA but will follow the specific Union market conditions and realities.

(65) In the disclosure document, for the purposes of dumping calculations, Delta's selling prices of only alkaline grade EMD to various markets were compared to the constructed normal value, whereas for the purpose of undercutting calculations also Delta's sales of one type of carbon zinc grade were taken into account. Following disclosure, the Union industry commented that all Delta's sales of alkaline and carbon zinc grade EMD should be taken into account for dumping and injury calculations. In contrast, Delta claimed that since the vast majority of Union consumption and Delta's exports to the Union only consist of alkaline EMD, sales of carbon zinc grade EMD should not be taken into account at all.

(66) The Commission has reached the conclusion that both alkaline and carbon zinc grade EMD, all types included, should be taken into account for both dumping and injury calculations, for the following main reasons: First of all, as mentioned above, there is also a market and consequently demand for carbon zinc grade EMD in the Union, albeit smaller than the market of alkaline grade EMD, and this market could also be of interest for Delta's exports to the Union. Secondly, alkaline grade and carbon zinc grade EMD are manufactured in the same plant and in the same production line using the same raw material and the same production process. Depending on the settings of the parameters in the electrolysis process (current density, temperature, electrolyte concentration etc.), EMD producers can choose to produce alkaline or carbon zinc EMD. Therefore, it is more appropriate to calculate the undercutting by comparing the average export price of Delta's EMD (both alkaline and carbon zinc) with the average selling price of the Union producers of EMD (both alkaline and carbon zinc).

(67) As far as the underselling analysis is concerned, the Commission used as a reference the target profit achieved by the Union industry in the absence of dumped imports in the original investigation, which corresponds to the profit that a capital intensive industry such as the EMD manufacturers can expect to achieve in normal conditions of competition. However, the issue of the most appropriate target profit is irrelevant in the context of this particular expiry review. Indeed, the Commission acknowledges that there was no continuation of dumping and therefore there was no continuation of injury due to the undercutting. The focus of the analysis is therefore forward-looking and aims to predict the likelihood of recurrence of injury in case of likely recurrence of dumping.

(68) Delta claimed that post-importation costs appeared to be underestimated because they did not take into account the transport costs for the product delivered to customers from the Antwerp port.

(69) However, the Commission compared the Union industry's prices ex-works with the exporters' price at Union borders, and therefore post-importation costs only concerned handling and testing but not transportation costs. This claim was therefore rejected.

3. **Imports from other third countries**

(70) The following table shows the development of imports from other third countries during the period considered in terms of volume and market share, as well as the average price of these imports.

Table 3

	2009	2010	2011	RIP
Volume of imports from other countries (tonnes)	5 000-10 000	10 000-15 000	5 000-10 000	5 000-10 000
Index 2009 = 100	100	113	92	88
Market share of imports from other third countries	25 %-30 %	30 %-35 %	20 %-25 %	20 %-25 %
Values of imports from other countries (EUR)	10 m-15 m	15 m-20 m	10 m-15 m	10 m-15 m
Index 2009 = 100	100	113	93	102
Price of imports (EUR/tonne)	1 566	1 572	1 590	1 809

Source: Eurostat

(71) The volume of imports from other third countries of EMD into the Union decreased in the period considered. Prices of these imports are above the average level of prices of the Union industry and Delta's prices to other markets excluding the USA during the RIP. As mentioned above, the value of EUR 1 809 per tonne is an average of very diverse import prices, ranging from low priced imports from China to very expensively priced imports from USA. In particular, recorded price levels of imports from the USA are extremely high compared to any other price ranges from the Union producers, Delta and other exporters, that they cannot be reasonably relied upon to carry out the analysis. Therefore, this average cannot be taken as such as a reference price for future imports from South Africa. Delta would not compete on price with the US imports but with the Union industry prices.

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

(72) Under Article 3(5) of the basic Regulation, all relevant economic factors and indices having a bearing on the state of the Union industry during the period considered were examined.

(a) **Production**

(73) The Union production increased by 6 % between 2009 and the RIP. More specifically, it increased by 7 percentage points between 2009 and 2011 and then declined by 1 percentage point during the RIP.

Table 4

	2009	2010	2011	RIP
Index 2009 = 100	100	102	107	106

Source: Questionnaire replies, Review request

(b) **Production capacity and capacity utilisation**

(74) The production capacity of the Union producers increased by 9 % throughout the period considered, mainly due to minor improvements to the production process (i.e. no major investments in new plants or equipment).

(75) Since the increase in capacity was higher than the increase in production, the capacity utilisation went down by 3 percentage points.

Table 5

	2009	2010	2011	RIP
Production Capacity Index 2009 = 100	100	103	108	109
Capacity Utilisation Index 2009 = 100	100	99	99	97

Source: Questionnaire replies, Review request

(c) **Stocks**

(76) Volume of stock remained stable during the period considered. It went down in 2011 but returned to 2009 levels during the RIP.

Table 6

	2009	2010	2011	RIP
Index 2009 = 100	100	103	86	100

Source: Questionnaire replies

(d) **Sales volume**

(77) The sales volume of the Union producers to unrelated customers on the Union market increased by 10 % between 2009 and the RIP. In 2011 it increased by 20 % in comparison to 2009, but then decreased sharply by 10 percentage points during the RIP.

Table 7

	2009	2010	2011	RIP
Index 2009 = 100	100	103	120	110

Source: Questionnaire replies, Review request

(e) **Market share**

(78) Between 2009 and the RIP the Union producers gained 10 percentage points in market share. This increase in market share is explained by the decline in market share of imports into the Union.

Table 8

	2009	2010	2011	RIP
Market share of the Union industry	65 %-70 %	65 %-70 %	75 %-80 %	75 %-80 %
Index 2009 = 100	100	101	111	110

Source: Questionnaire replies, Review request and Eurostat

(f) **Growth**

(79) Union consumption remained stable between 2009 and the RIP as set out in Table 1 above. All other indicators do not show any significant growth in the Union market for the product under review.

(g) **Employment**

(80) The employment level of the Union industry shows a decrease of 9 percentage points between 2009 and the RIP.

Table 9

	2009	2010	2011	RIP
Index 2009 = 100	100	91	90	91

Source: Questionnaire replies, Review request

(h) **Productivity**

(81) Productivity of the Union industry workforce, measured as output (tonnes) per employee per year, increased by 18 % in the period considered. This reflects that production increased by 6 %, whilst employment levels decreased by 9 %. This is particularly obvious in 2011, when production increased while the employment level continued to decrease and productivity was 20 percentage points higher than in 2009.

Table 10

	2009	2010	2011	RIP
Index 2009 = 100	100	112	120	118

Source: Questionnaire replies and Review request

(i) **Factors affecting sales prices**

(82) The annual average sales prices of the Union industry on the Union market to unrelated customers decreased by 11 % between 2009 and the RIP.

Table 11

	2009	2010	2011	RIP
Index 2009 = 100	100	95	93	89

Source: Questionnaire replies, Review request

(j) **Magnitude of dumping margin and recovery from past dumping**

(83) As imports from South Africa virtually ceased after imposition of the anti-dumping measures in force, the magnitude of dumping margins cannot be assessed. However, in light of the key economic indicators referred to above as well as further below, the Union industry was found to be still in a fragile and vulnerable situation.

(k) **Wages**

(84) Despite the fact that the total labour cost decreased the average labour cost increased during the period considered as a consequence of the reduction of the overall workforce.

Table 12

	2009	2010	2011	RIP
Index 2009 = 100	100	102	103	103

Source: Questionnaire replies

(l) **Profitability and return on investments**

(85) During the period considered, the profitability of the Union industry's sales of the like product on the Union market to unrelated customers, expressed as a percentage of net sales, halved between 2009 and the RIP. The profitability during the RIP is significantly lower than the target profit established in the original investigation, which was set at the level of the profit achieved by the Union industry in the absence of injurious dumping.

(86) The return on investments (ROI), expressed as the profit in percent of the net book value of investments, broadly followed the profitability trend.

Table 13

	2009	2010	2011	RIP
Profitability of Union Industry	5 %-10 %	5 %-10 %	5 %-10 %	0 %-5 %
Index 2009 = 100	100	63	63	50
ROI (profit in % of net book value of investments)	15 %-20 %	5 %-10 %	10 %-15 %	5 %-10 %
Index 2009 = 100	100	64	84	51

Source: Questionnaire replies

(m) **Cash flow and ability to raise capital**

(87) The net cash flow from operating activities dropped considerably over the period considered, although it remained positive, except for the year 2010.

Table 14

	2009	2010	2011	RIP
Index 2009 = 100	100	– 34	71	10

Source: Questionnaire replies

(88) There are no indications that the Union industry would have encountered difficulties in raising capital if it had tried to, but there were no significant investments during the period under consideration and therefore the Union industry was not 'put to the test'.

(n) **Investments**

(89) The Union industry annual investments in the production of the like product almost halved between 2009 and the RIP. More specifically, it decreased in 2010, increased in 2011 and decreased again during the RIP. The sharp drop in investments observed between 2011 and the RIP can be partially explained by the fact that the Union industry had already during the period considered achieved their necessary scheduled main investments.

Table 15

	2009	2010	2011	RIP
Index 2009 = 100	100	45	115	52

Source: Questionnaire replies

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

(90) The analysis of the economic indicators shows that the Union industry increased its production and sales during the period considered. However, the observed increase in quantity, which was not significant as such, should be seen in the context of increased production capacity and decrease in selling prices, which resulted in the Union producers' capacity utilisation and unit selling price dropping respectively by 3 and 11 percentage points.

(91) At the same time the economic situation of the Union industry showed a deterioration in terms of profitability, return on investment, employment and cash flow. In particular, the profitability, which is an important indicator of the status of the Union industry, is still significantly below the target profit as established in the original investigation. The Union industry has not yet fully recovered from the effects of past dumping, and is still in a fragile situation, and thus very vulnerable to any recurrence of dumped imports. Average sales prices have decreased over the years and would in all likelihood decrease further if dumped imports from South Africa were to reoccur, thus exacerbating the already fragile situation of the Union industry.

(92) Following disclosure, certain interested parties claimed that the current fragile and vulnerable situation of the Union industry was neither due to dumped imports from South Africa nor due to the effects of past dumping.

(93) They noted that the trends of the key economic indicators shown above concerned a period (from 2009 to the end of the RIP) where: (i) the original anti-dumping measures had already been in force for a while; (ii) imports from South Africa had virtually ceased; and (iii) a new player (Cegasa) entered the open Union market. Interested parties looked at the economic indicators of each of the two Union producers separately, instead of aggregating them, and concluded that the Union industry was in a difficult situation due to newly experienced internal competition among the only two Union producers in the market.

(94) In particular, these interested parties claimed that the Commission had failed to acknowledge the fundamental changes occurred in the Union industry since 2009. They noted that following imposition of the anti-dumping measures in force the economic indicators of the original and only complainant (THA) improved dramatically, thus removing all negative effects of the past dumping. However, subsequently, the other Union producer, Cegasa, which was previously manufacturing EMD only for captive use, relocated its battery production facility outside the Union. As a consequence, it freed a significant amount of EMD for the open market, and started selling it at a low price, thus competing with the only other Union producer and exerting a strong downward pressure on prices, capacity utilisation and profitability.

(95) In the disclosure document, the Commission had already acknowledged the change in the configuration of the Union industry compared to the original investigation. This has been a positive development which shows market openness and an increased level of competition among the various players including imports.

(96) The Commission also agrees that under these circumstances and notably in the absence of imports from South Africa the current state of the Union industry cannot be due to the dumping from South Africa and should not be qualified as 'continuation of injury'.

(97) The Commission has examined the aggregate trends of both Union producers since 2009 and has concluded that the key economic indicators are not favourable and that the Union industry is in a fragile and vulnerable state. Clearly, in the absence of imports from South Africa the reason cannot be the dumping practices of Delta. However, in an expiry review where the focus is on the likelihood of recurrence of dumping and injury should the measures lapse, dumping, injury and causation during the RIP are not the determining factors of the analysis.

(98) The Commission concludes that the Union industry is still in a fragile and vulnerable situation and its profitability is far from the levels that could be expected in such a capital intensive industry. A comparison with the original investigation can only be made for one Union producer, as the other did not sell on the open Union market at that time. For that Union producer, profits in the RIP were significantly lower than found in the original investigation in the absence of dumped imports.

F. LIKELIHOOD OF RECURRENCE OF INJURY

1. Impact of the projected volume of imports and price effects in case of repeal of measures

(99) The only known South African producer (Delta) of EMD has spare capacity and a potential to restart exporting to the Union market in significant quantities. During the original period considered (2002 to 2005/6) the market share of Delta increased strongly from around 30-40 % to 60-70 %. Delta has thus already shown its capability to rapidly increase export volumes to the Union.

(100) The CIF export prices of Delta to the other markets, excluding the USA and including all types and all grades of EMD, were lower than the prices of the Union industry in the RIP and undercut them. Lower prices on the other markets could be an incentive for Delta to divert these exports to the Union market should the measures lapse.

(101) Given the spare capacity identified during the investigation, the saturation of other export markets combined with the attractiveness of the Union market, Delta would in all likelihood try to regain its substantial market share in the Union which was lost after imposition of the measures in force. As concluded above, for Delta to regain market share it would need to export at dumped prices. Consequently, in the absence of anti-dumping duties on imports of EMD originating in South Africa, any recurrence of dumped imports would exercise an even stronger price pressure on the Union industry and in all likelihood cause material injury.

2. Conclusion on the likelihood of recurrence of injury

(102) The repeal of the measures would in all likelihood result in a recurrence of dumped imports from South Africa resulting in a downwards pressure on Union industry prices and a worsening of its economic situation. The repeal of measures against South Africa would therefore likely result in a recurrence of injury due to the likely exacerbation of the already fragile and vulnerable situation in which the Union industry was currently found to be.

G. UNION INTEREST

1. Introduction

(103) Under Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures against South Africa would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests concerned.

(104) All interested parties were given the opportunity to make their views known pursuant to Article 21(2) of the basic Regulation.

(105) In the original investigation the imposition of measures was considered not to be against the interest of the Union. As this investigation is a review, it analyses a situation in which anti-dumping measures have already been in place, thereby allowing the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.

(106) Despite the conclusions on the likelihood of recurrence of injurious dumping, the Commission examined whether compelling reasons existed which would lead to the conclusion that it is not in the Union interest to maintain measures against imports of EMD originating in South Africa.

2. **Interest of the Union industry and other Union producers**

(107) Although the anti-dumping measures in force prevented dumped imports from entering the Union market, the Union industry is still in a fragile and vulnerable situation, as confirmed by the negative trends of some key injury indicators.

(108) Should the measures be allowed to lapse, it is likely that the current situation of the Union industry will continue and further deteriorate given the likely influx of substantial volumes of dumped imports from South Africa. This influx would cause, amongst others, loss of market share, decrease in sales price, decrease in capacity utilisation and in general a serious deterioration of the Union industry's financial situation.

(109) It is therefore clear that the maintenance of anti-dumping measures against South Africa would not be against the interest of the Union industry.

3. **Interest of importers**

(110) In the original investigation it was found that the impact of the imposition of measures was not likely to have a serious negative effect on the situation of importers in the Union. No traders/importers cooperated in the current investigation. Bearing in mind that there is no evidence suggesting that the measures in force have considerably affected importers, it can be concluded that the continuation of measures will not negatively affect the Union importers to any significant extent.

4. **Interest of users**

(111) All known users of EMD in the Union (used by battery producers as raw material) were contacted. Replies were received from two companies belonging to the same multinational group. In the original investigation two additional battery producers cooperated, which opposed the imposition of measures.

(112) The cooperating user explained the difficult economic situation faced by battery producers in the Union due to the downward pressure on prices exerted by their main customers (retailers), and the consequent risk of loss of jobs. However, it could not provide any explanations or arguments as to why and how the termination of the measures against imports of EMD from South Africa would improve the situation.

(113) EMD accounts for only 10-15 % of the total cost of production of batteries. This value decreased compared to the original investigation. In addition, following imposition of measures, the average sales price of EMD in the Union actually decreased. In reality, no evidence was provided that maintaining the measures in force would have a non-negligible influence on the costs of production of battery producers.

(114) In the absence of such evidence, the Commission concludes that maintaining the measures would not unduly affect the EMD users.

(115) Following disclosure, the same user disagreed with the Commission's assessment of the situation and commented that following imposition of measures one source of good quality EMD disappeared, prices for EMD increased and even if EMD accounts for only 10-15 % of the production costs this has a significant impact on the already small profitability of Union battery producers.

(116) Notwithstanding the claim, the evidence in the file shows that the user's choice not to make use of Delta's EMD was not linked to the imposition of anti-dumping duties and that the threat to the user's profitability and jobs is not an increase in EMD price but is in fact the downward pressure on price exerted by their main customers (multinational retailers with significant purchasing power) and by Chinese battery producers.

(117) The same user of EMD commented that the measures should not be maintained, as the investigation found no dumping to the Union during the RIP and that there was no risk of recurrence of dumping due to the small market share possible for Delta if all its spare capacity was directed to the Union.

(118) This argument was rejected as Delta's potential market share identified would clearly be significant and these exports to the Union would likely be made at dumped prices.

5. **Future developments**

(119) The complainants mentioned in the request for an expiry review that if demand for electric cars increases in the Union in the future, there will be an upstream increase in demand for EMD which is said to be the raw material most frequently used in the production of lithium manganese oxide (LMO) which in turns serves as cathode material for rechargeable lithium ion batteries (LIB) used in many models of electric vehicles. They claim that if injury from dumped South African imports reoccurs, the Union EMD industry may not be around to service this potential future demand in new technologies.

(120) The investigation did not find conclusive evidence in support or against the claim that any future development in the electric car sector would significantly impact the EMD industry and the demand for EMD. However, it is a fact that the Union industry is testing the feasibility of manufacturing LMO using EMD, is able to obtain the know-how and the equipment to do so in the future and is participating in a number of Union funded projects related to the research and development of lithium-ion batteries.

(121) Following disclosure, this issue was briefly mentioned by some interested parties, but again no conclusive evidence was provided on the possible impact of any future development in the electric car sector in the Union and/or in other markets on the product concerned.

6. **Conclusion on Union interest**

(122) Given the evidence above, there are no compelling reasons against the maintenance of the current anti-dumping measures.

(123) Therefore under Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of certain electrolytic manganese dioxides originating in South Africa should be maintained for an additional period of five years,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of electrolytic manganese dioxides (i.e. manganese dioxides produced through an electrolytic process) not heat-treated after the electrolytic process, currently falling within CN code ex 2820 10 00 (TARIC code 2820 10 00 10) and originating in the Republic of South Africa.

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

Company	Anti-Dumping Duty	TARIC Additional Code
Delta E.M.D. (Pty) Ltd.	17,1 %	A828
All other companies	17,1 %	A999

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

Article 2

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

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

Done at Brussels, 24 February 2014.

For the Council
The President
K. ARVANITOPOULOS

COMMISSION IMPLEMENTING REGULATION (EU) No 192/2014

of 27 February 2014

approving the active substance 1,4-dimethylnaphthalene, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Implementing Regulation (EU) No 540/2011

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ([1]), and in particular Article 13(2) and Article 78(2) thereof,

Whereas:

(1) In accordance with Article 80(1)(a) of Regulation (EC) No 1107/2009, Council Directive 91/414/EEC ([2]) is to apply, with respect to the procedure and the conditions for approval, to active substances for which a decision has been adopted in accordance with Article 6(3) of that Directive before 14 June 2011. For 1,4-dimethylnaphthalene the conditions of Article 80(1)(a) of Regulation (EC) No 1107/2009 are fulfilled by Commission Decision 2010/244/EU ([3]).

(2) In accordance with Article 6(2) of Directive 91/414/EEC the Netherlands received on 25 June 2009 an application from DormFresh Ltd for the inclusion of the active substance 1,4-dimethylnaphthalene in Annex I to Directive 91/414/EEC. Decision 2010/244/EC confirmed that the dossier was 'complete' in the sense that it could be considered as satisfying, in principle, the data and information requirements of Annexes II and III to Directive 91/414/EEC.

(3) For that active substance, the effects on human and animal health and the environment have been assessed, in accordance with the provisions of Article 6(2) and (4) of Directive 91/414/EEC, for the uses proposed by the applicant. The designated rapporteur Member State submitted a draft assessment report on 21 March 2012.

(4) The draft assessment report was reviewed by the Member States and the European Food Safety Authority (hereinafter 'the Authority'). The Authority presented to the Commission its conclusion on the pesticide risk assessment of the active substance 1,4-dimethylnaphthalene ([4]) on 16 May 2013. The draft assessment report and the conclusion of the Authority were reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 13 December 2013 in the format of the Commission review report for 1,4-dimethylnaphthalene.

(5) It has appeared from the various examinations made that plant protection products containing 1,4-dimethylnaphthalene may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) and Article 5(3) of Directive 91/414/EEC, in particular with regard to the uses which were examined and detailed in the Commission review report. It is therefore appropriate to approve 1,4-dimethylnaphthalene.

(6) In accordance with Article 13(2) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is, however, necessary to include certain conditions and restrictions. It is, in particular, appropriate to require further confirmatory information.

(7) A reasonable period should be allowed to elapse before approval in order to permit Member States and the interested parties to prepare themselves to meet the new requirements resulting from the approval.

(8) Without prejudice to the obligations provided for in Regulation (EC) No 1107/2009 as a consequence of approval, taking into account the specific situation created by the transition from Directive 91/414/EEC to Regulation (EC) No 1107/2009, the following should, however, apply. Member States should be allowed a period of six months after approval to review authorisations of plant protection products containing 1,4-dimethylnaphthalene. Member States should, as appropriate, vary, replace or withdraw authorisations. By way of derogation from that deadline, a longer period should be provided for the submission and assessment of the complete Annex III dossier, as set out in Directive 91/414/EEC, of each plant protection product for each intended use in accordance with the uniform principles.

([1]) OJ L 309, 24.11.2009, p. 1.

([2]) Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

([3]) Commission Decision 2010/244/EU of 26 April 2010 recognising in principle the completeness of the dossier submitted for detailed examination in view of the possible inclusion of 1,4-dimethylnaphthalene and cyflumetofen in Annex I to Council Directive 91/414/EEC (OJ L 107, 29.4.2010, p. 22).

([4]) EFSA Journal 2013; 11(6):3229. Available online: www.efsa.europa.eu

(9) The experience gained from inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Commission Regulation (EEC) No 3600/92 [1] has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the Directives which have been adopted until now amending Annex I to that Directive or the Regulations approving active substances.

(10) In accordance with Article 13(4) of Regulation (EC) No 1107/2009, the Annex to Commission Implementing Regulation (EU) No 540/2011 [2] should be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Approval of active substance

The active substance 1,4-dimethylnaphthalene, as specified in Annex I, is approved subject to the conditions laid down in that Annex.

Article 2

Re-evaluation of plant protection products

1. Member States shall in accordance with Regulation (EC) No 1107/2009, where necessary, amend or withdraw existing authorisations for plant protection products containing 1,4-dimethylnaphthalene as an active substance by 31 December 2014.

By that date they shall in particular verify that the conditions in Annex I to this Regulation are met, with the exception of those identified in the column on specific provisions of that Annex, and that the holder of the authorisation has, or has access to, a dossier satisfying the requirements of Annex II to Directive 91/414/EEC in accordance with the conditions of Article 13(1) to (4) of that Directive and Article 62 of Regulation (EC) No 1107/2009.

2. By way of derogation from paragraph 1, for each authorised plant protection product containing 1,4-dimethylnaphthalene as either the only active substance or as one of several active substances, all of which were listed in the Annex to Implementing Regulation (EU) No 540/2011 by 30 June 2014 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, on the basis of a dossier satisfying the requirements of Annex III to Directive 91/414/EEC and taking into account the column on specific provisions of Annex I to this Regulation. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 29(1) of Regulation (EC) No 1107/2009.

Following that determination Member States shall:

(a) in the case of a product containing 1,4-dimethylnaphthalene as the only active substance, where necessary, amend or withdraw the authorisation by 31 December 2015 at the latest; or

(b) in the case of a product containing 1,4-dimethylnaphthalene as one of several active substances, where necessary, amend or withdraw the authorisation by 31 December 2015 or by the date fixed for such an amendment or withdrawal in the respective act or acts which added the relevant substance or substances to Annex I to Directive 91/414/EEC or approved that substance or those substances, whichever is the latest.

Article 3

Amendments to Implementing Regulation (EU) No 540/2011

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with Annex II to this Regulation.

Article 4

Entry into force and date of application

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

It shall apply from 1 July 2014.

[1] Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC (OJ L 366, 15.12.1992, p. 10).

[2] Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

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

Done at Brussels, 27 February 2014.

For the Commission
The President
José Manuel BARROSO

ANNEX I

Common Name, Identification Numbers	IUPAC Name	Purity (1)	Date of approval	Expiration of approval	Specific provisions
1,4-dimethylnaphthalene CAS No 571-58-4 CIPAC No 822	1,4-dimethylnaphthalene	≥ 980 g/kg	1 July 2014	30 June 2024	For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on 1,4-dimethylnaphthalene, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 13 December 2013 shall be taken into account. In this overall assessment Member States shall pay particular attention to: (a) the protection of operators and of workers at re-entry and during inspection of the warehouse; (b) the risk to aquatic organisms and fish-eating mammals the active substance is discharged from warehouses into air and surface water without further treatment. Conditions of use shall include risk mitigation measures, where appropriate. The applicant shall submit confirmatory information as regards the residue definition for the active substance. The applicant shall submit to the Commission, the Member States and the Authority the relevant information by 30 June 2016.

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

ANNEX II

In Part B of the Annex to Implementing Regulation (EU) No 540/2011, the following entry is added:

Number	Common Name, Identification Numbers	IUPAC Name	Purity (*)	Date of approval	Expiration of approval	Specific provisions
'68	1,4-dimethylnaphthalene CAS No 571-58-4 CIPAC No 822	1,4-dimethylnaphthalene	≥ 980 g/kg	1 July 2014	30 June 2024	For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on 1,4-dimethylnaphthalene, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 13 December 2013 shall be taken into account. In this overall assessment Member States shall pay particular attention to: (a) the protection of operators and of workers at re-entry and during inspection of the warehouse; (b) the risk to aquatic organisms and fish-eating mammals the active substance is discharged from warehouses into air and surface water without further treatment. Conditions of use shall include risk mitigation measures, where appropriate. The applicant shall submit confirmatory information as regards the residue definition for the active substance. The applicant shall submit to the Commission, the Member States and the Authority the relevant information by 30 June 2016.'

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

COMMISSION IMPLEMENTING REGULATION (EU) No 193/2014

of 27 February 2014

approving the active substance amisulbrom, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC [1], and in particular Article 13(2) and Article 78(2) thereof,

Whereas:

(1) In accordance with Article 80(1)(a) of Regulation (EC) No 1107/2009, Council Directive 91/414/EEC [2] is to apply, with respect to the procedure and the conditions for approval, to active substances for which a decision has been adopted in accordance with Article 6(3) of that Directive before 14 June 2011. For amisulbrom the conditions of Article 80(1)(a) of Regulation (EC) No 1107/2009 are fulfilled by Commission Decision 2007/669/EC [3].

(2) In accordance with Article 6(2) of Directive 91/414/EEC the United Kingdom received on 24 March 2006 an application from Nissan Chemical Europe S.A.R.L. for the inclusion of the active substance amisulbrom in Annex I to Directive 91/414/EEC. Decision 2007/669/EC confirmed that the dossier was 'complete' in the sense that it could be considered as satisfying, in principle, the data and information requirements of Annexes II and III to Directive 91/414/EEC.

(3) For that active substance, the effects on human and animal health and the environment have been assessed, in accordance with the provisions of Article 6(2) and (4) of Directive 91/414/EEC, for the uses proposed by the applicant. The designated rapporteur Member State submitted a draft assessment report on 15 July 2008. In accordance with Article 11(6) of Commission Regulation (EU) No 188/2011 [4] additional information was requested from the applicant on 20 May 2011. The evaluation of the additional data by the United Kingdom was submitted in the format of an updated draft assessment report in February 2012.

(4) The draft assessment report was reviewed by the Member States and the European Food Safety Authority (hereinafter 'the Authority'). The Authority presented to the Commission its conclusion on the pesticide risk assessment of the active substance amisulbrom [5] on 27 May 2013. The draft assessment report and the conclusion of the Authority were reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 13 December 2013 in the format of the Commission review report for amisulbrom.

(5) It has appeared from the various examinations made that plant protection products containing amisulbrom may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) and Article 5(3) of Directive 91/414/EEC, in particular with regard to the uses which were examined and detailed in the Commission review report. It is therefore appropriate to approve amisulbrom.

(6) In accordance with Article 13(2) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is, however, necessary to include certain conditions and restrictions. It is, in particular, appropriate to require further confirmatory information.

(7) A reasonable period should be allowed to elapse before approval in order to permit Member States and the interested parties to prepare themselves to meet the new requirements resulting from the approval.

[1] OJ L 309, 24.11.2009, p. 1.

[2] Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

[3] Commission Decision 2007/669/EC of 15 October 2007 recognising in principle the completeness of the dossier submitted for detailed examination in view of the possible inclusion of *Adoxophyes orana granulovirus*, amisulbrom, emamectin, pyridalil and *Spodoptera littoralis nucleopolyhedrovirus* in Annex I to Council Directive 91/414/EEC (OJ L 274, 18.10.2007, p. 15).

[4] Commission Regulation (EU) No 188/2011 of 25 February 2011 laying down detailed rules for the implementation of Council Directive 91/414/EEC as regards the procedure for the assessment of active substances which were not on the market 2 years after the date of notification of that Directive (OJ L 53, 26.2.2011, p. 51).

[5] EFSA Journal 2013; 11(6):3237. Available online: www.efsa.europa.eu

(8) Without prejudice to the obligations provided for in Regulation (EC) No 1107/2009 as a consequence of approval, taking into account the specific situation created by the transition from Directive 91/414/EEC to Regulation (EC) No 1107/2009, the following should, however, apply. Member States should be allowed a period of six months after approval to review authorisations of plant protection products containing amisulbrom. Member States should, as appropriate, vary, replace or withdraw authorisations. By way of derogation from that deadline, a longer period should be provided for the submission and assessment of the complete Annex III dossier, as set out in Directive 91/414/EEC, of each plant protection product for each intended use in accordance with the uniform principles.

(9) The experience gained from inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Commission Regulation (EEC) No 3600/92 [1] has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the Directives which have been adopted until now amending Annex I to that Directive or the Regulations approving active substances.

(10) In accordance with Article 13(4) of Regulation (EC) No 1107/2009, the Annex to Commission Implementing Regulation (EU) No 540/2011 [2] should be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Approval of active substance

The active substance amisulbrom, as specified in Annex I, is approved subject to the conditions laid down in that Annex.

Article 2

Re-evaluation of plant protection products

1. Member States shall in accordance with Regulation (EC) No 1107/2009, where necessary, amend or withdraw existing authorisations for plant protection products containing amisulbrom as an active substance by 31 December 2014.

By that date they shall in particular verify that the conditions in Annex I to this Regulation are met, with the exception of those identified in the column on specific provisions of that Annex, and that the holder of the authorisation has, or has access to, a dossier satisfying the requirements of Annex II to Directive 91/414/EEC in accordance with the conditions of Article 13(1) to (4) of that Directive and Article 62 of Regulation (EC) No 1107/2009.

2. By way of derogation from paragraph 1, for each authorised plant protection product containing amisulbrom as either the only active substance or as one of several active substances, all of which were listed in the Annex to Implementing Regulation (EU) No 540/2011 by 30 June 2014 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, on the basis of a dossier satisfying the requirements of Annex III to Directive 91/414/EEC and taking into account the column on specific provisions of Annex I to this Regulation. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 29(1) of Regulation (EC) No 1107/2009.

Following that determination Member States shall:

(a) in the case of a product containing amisulbrom as the only active substance, where necessary, amend or withdraw the authorisation by 31 December 2015 at the latest; or

(b) in the case of a product containing amisulbrom as one of several active substances, where necessary, amend or withdraw the authorisation by 31 December 2015 or by the date fixed for such an amendment or withdrawal in the respective act or acts which added the relevant substance or substances to Annex I to Directive 91/414/EEC or approved that substance or those substances, whichever is the latest.

Article 3

Amendments to Implementing Regulation (EU) No 540/2011

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with Annex II to this Regulation.

[1] Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC (OJ L 366, 15.12.1992, p. 10).

[2] Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

Article 4

Entry into force and date of application

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

It shall apply from 1 July 2014.

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

Done at Brussels, 27 February 2014.

For the Commission
The President
José Manuel BARROSO

ANNEX I

Common Name, Identification Numbers	IUPAC Name	Purity (1)	Date of approval	Expiration of approval	Specific provisions
Amisulbrom CAS No 348635-87-0 CIPAC No 789	3-(3-bromo-6-fluoro-2-methylindol-1-ylsulfonyl)-*N*,*N*-dimethyl-1*H*-1,2,4-triazole-1-sulfonamide	≥ 985 g/kg The following relevant impurity shall not exceed: 3-bromo-6-fluoro-2-methyl-1-(1H-1,2,4-triazol-3-ylsulfonyl)-1H-indole: ≤ 2 g/kg	1 July 2014	30 June 2024	For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on amisulbrom, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 13 December 2013 shall be taken into account. In this overall assessment Member States shall pay particular attention to the risk to aquatic and soil organisms. Conditions of use shall include risk mitigation measures, where appropriate. The applicant shall submit confirmatory information as regards: (1) the non-significance of photodegradation in the soil metabolism of amisulbrom concerning the metabolites 3-bromo-6-fluoro-2-methyl-1-(1*H*-1,2,4-triazol-3-ylsulfonyl)-1*H*-indole and 1-(dimethylsulfamoyl)-1*H*-1,2,4-triazole-3-sulfonic acid to contaminate groundwater; (2) the low potential of amisulbrom (FOCUS drainage scenarios only) and metabolites 1-(dimethylsulfamoyl)-1*H*-1,2,4-triazole-3-sulfonic acid, 1*H*-1,2,4-triazole-3-sulfonic acid, 1*H*-1,2,4-triazole, *N*,*N*-dimethyl-1*H*-1,2,4-triazole-3-sulfonamide, 2-acetamido-4-fluorobenzoic acid, 2-acetamido-4-fluoro-hydroxybenzoic acid and 2,2′-oxybis(6-fluoro-2-methyl-1,2-dihydro-3*H*-indol-3-one) to contaminate surface water or to expose aquatic organisms by runoff; (3) depending on the outcome of the assessment under (1) and (2), where there is considerable photodegradation in soil or where there is high potential for contamination or exposure, additional analytical methods to determine all compounds of the residue definition for monitoring in surface water; (4) the risk from secondary poisoning for birds and mammals by 3-bromo-6-fluoro-2-methyl-1-(1*H*-1,2,4-triazol-3-ylsulfonyl)-1*H*-indole; (5) the potential for causing endocrine disrupting effects in birds and fish by amisulbrom and its metabolite 3-bromo-6-fluoro-2-methyl-1-(1*H*-1,2,4-triazol-3-ylsulfonyl)-1*H*-indole. The applicant shall submit to the Commission, the Member States and the Authority the relevant information set out in points (1) to (4) by 30 June 2016 and under point (5) within two years after the adoption of pertinent OECD test guidelines on endocrine disruption.

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

ANNEX II

In Part B of the Annex to Implementing Regulation (EU) No 540/2011, the following entry is added:

Number	Common Name, Identification Numbers	IUPAC Name	Purity (*)	Date of approval	Expiration of approval	Specific provisions
'69	Amisulbrom CAS No 348635-87-0 CIPAC No 789	3-(3-bromo-6-fluoro-2-methylindol-1-ylsulfonyl)-*N*,*N*-dimethyl-1*H*-1,2,4-triazole-1-sulfonamide	≥ 985 g/kg The following relevant impurity must not exceed a certain threshold in the technical material: 3-bromo-6-fluoro-2-methyl-1-(1H-1,2,4-triazol-3-ylsulfonyl)-1H-indole: ≤ 2 g/kg	1 July 2014	30 June 2024	For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on amisulbrom, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 13 December 2013 shall be taken into account. In this overall assessment Member States shall pay particular attention to the risk to aquatic and soil organisms. Conditions of use shall include risk mitigation measures, where appropriate. The applicant shall submit confirmatory information as regards: (1) the non-significance of photodegradation in the soil metabolism of amisulbrom concerning the metabolites 3-bromo-6-fluoro-2-methyl-1-(1*H*-1,2,4-triazol-3-ylsulfonyl)-1*H*-indole and 1-(dimethylsulfamoyl)-1*H*-1,2,4-triazole-3-sulfonic acid to contaminate groundwater; (2) the low potential of amisulbrom (FOCUS drainage scenarios only) and metabolites 1-(dimethylsulfamoyl)-1*H*-1,2,4-triazole-3-sulfonic acid, 1*H*-1,2,4-triazole-3-sulfonic acid, 1*H*-1,2,4-triazole, *N*,*N*-dimethyl-1*H*-1,2,4-triazole-3-sulfonamide, 2-acetamido-4-fluorobenzoic acid, 2-acetamido-4-fluoro-hydroxybenzoic acid and 2,2′-oxybis(6-fluoro-2-methyl-1,2-dihydro-3*H*-indol-3-one) to contaminate surface water or to expose aquatic organisms by runoff; (3) depending on the outcome of the assessment under (1) and (2), where there is considerable photodegradation in soil or where there is high potential for contamination or exposure, additional analytical methods to determine all compounds of the residue definition for monitoring in surface water; (4) the risk from secondary poisoning for birds and mammals by 3-bromo-6-fluoro-2-methyl-1-(1*H*-1,2,4-triazol-3-ylsulfonyl)-1*H*-indole; (5) the potential for causing endocrine disrupting effects in birds and fish by amisulbrom and its metabolite 3-bromo-6-fluoro-2-methyl-1-(1*H*-1,2,4-triazol-3-ylsulfonyl)-1*H*-indole. The applicant shall submit to the Commission, the Member States and the Authority the relevant information set out in points (1) to (4) by 30 June 2016 and under point (5) within two years after the adoption of pertinent OECD test guidelines on endocrine disruption.'

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

COMMISSION IMPLEMENTING REGULATION (EU) No 194/2014

of 27 February 2014

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

THE EUROPEAN COMMISSION,

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

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

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

Whereas:

(1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 27 February 2014.

For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General for Agriculture and Rural Development

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

ANNEX

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

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	MA	57,0
	TN	71,7
	TR	89,4
	ZZ	72,7
0707 00 05	EG	182,1
	JO	188,1
	MA	114,7
	TR	158,0
	ZZ	160,7
0709 91 00	EG	72,9
	ZZ	72,9
0709 93 10	MA	31,6
	TR	91,9
	ZZ	61,8
0805 10 20	EG	47,7
	IL	60,3
	MA	57,7
	TN	46,7
	TR	64,0
	ZZ	55,3
0805 20 10	IL	129,9
	MA	95,0
	ZZ	112,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	IL	137,1
	MA	121,1
	PK	46,0
	TR	72,9
	US	134,1
	ZZ	102,2
0805 50 10	EG	57,3
	TR	67,5
	ZZ	62,4
0808 10 80	CN	115,7
	MK	30,8
	US	157,0
	ZZ	101,2
0808 30 90	AR	120,1
	CL	207,1
	CN	72,1
	TR	156,2
	US	124,7
	ZA	104,6
	ZZ	130,8

(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'.

DIRECTIVES

COMMISSION IMPLEMENTING DIRECTIVE 2014/37/EU

of 27 February 2014

amending Council Directive 91/671/EEC relating to the compulsory use of safety belts and child restraint systems in vehicles

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 91/671/EEC relating to the compulsory use of safety belts and child restraint systems in vehicles [1], and in particular Article 7a thereof,

Whereas:

(1) On 24 March 1998, the European Community acceded to the Agreement of the United Nations Economic Commission for Europe (UNECE) concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions (hereinafter referred to as the 'Revised 1958 Agreement'), in accordance with Council Decision 97/836/EC [2].

(2) In accordance with paragraph 1 of Annex II to Decision 97/836/EC, the technical requirements of UNECE Regulations under the Revised 1958 Agreement become alternatives to the technical annexes to the relevant separate Union Directives where the latter possess the same scope and where for the UNECE Regulations separate Union Directives exist. However, the additional provisions of Directives, such as those concerning fitting requirements or the approval procedure, remain in force.

(3) A new UNECE Regulation on uniform provisions concerning the approval of Enhanced Child Restraint Systems used on board of motor vehicles (hereinafter referred to as 'Regulation 129') was established and adopted under the auspices of the UNECE.

(4) Regulation 129 entered into force on 9 July 2013 as an annex to the Revised 1958 Agreement.

(5) The standardised requirements of Regulation 129 constitute alternative enhanced requirements in relation to those established under Regulation 44 on uniform provisions concerning the approval of restraining devices for child occupants of power-driven vehicles ('Child restraint systems') [3] and reflect technical progress in several aspects of child restraint systems such as tests for side impacts, the rear facing position of children up to 15 months, compatibility with different vehicles, test dummies and test benches and adaptability to various child sizes;

(6) As Directive 91/671/EEC lays down requirements for the approval and compulsory use of child restraint systems in motor vehicles within the Union, it should therefore be amended in order to include the use of child restraint systems approved according to the technical requirements of Regulation 129.

(7) The measures provided for in this Directive are in accordance with the opinion of the Committee established in accordance with Article 7b of Directive 91/671/ECC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 2 of Directive 91/671/EEC is amended as follows:

(1) point 1(a)(i) shall be replaced by the following:

'(i) for M1, N1, N2 and N3 vehicles, Member States shall require that all occupants of vehicles in use shall use the safety systems provided.

Children less than 150 cm in height occupying M1, N1, N2 and N3 vehicles fitted with safety systems shall be restrained by an integral or non-integral child-restraint system, within the meaning of Article 1(4)(a) and (b), which is suitable for the child's physical features in accordance with:

— classification provided for in Article 1(3), for child restraint systems approved in accordance with point (c)(i) of this paragraph;

[1] OJ L 373, 31.12.1991, p. 26.

[2] Council Decision 97/836/EC of 27 November 1997 with a view to accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions (OJ L 346, 17.12.1997, p. 78).

[3] OJ L 306, 23.11.2007, p. 1.

— the size range and maximum occupant mass for which the child restraint system is intended, as indicated by the manufacturer, for child restraint systems approved in accordance with point (c)(ii) of this paragraph.

In M1, N1, N2 and N3 vehicles that are not fitted with safety systems:

— children under three years of age may not be transported,

— without prejudice to point (ii), children aged three and over and less than 150 cm in height shall occupy a seat other than a front seat;'

(2) point 1(c) shall be replaced by the following:

'(c) where a child-restraint system is used, it shall be approved to the standards of:

i) UNECE Regulation 44/03 or Directive 77/541/EEC or

ii) UNECE Regulation 129;

or any subsequent adaptation thereto.

The child restraint system shall be installed in accordance with fitting information (e.g. instruction manual, leaflet or electronic publication) provided by the manufacturer of the child restraint system declaring in what manner and in which vehicle types the system may be safely used.'

Article 2

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive six months after its entry into force at the latest. They shall forthwith communicate to the Commission the text of those provisions.

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

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 27 February 2014.

For the Commission,
On behalf of the President,
Siim KALLAS
Vice-President

DECISIONS

COUNCIL DECISION

of 27 February 2014

appointing a member of the Court of Auditors

(2014/108/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 286(2) thereof,

Having regard to the opinion of the European Parliament [1],

Whereas:

(1) The term of office of Mr Harald WÖGERBAUER is due to expire on 28 February 2014.

(2) A new appointment should therefore be made,

HAS ADOPTED THIS DECISION:

Article 1

Mr Oskar HERICS is hereby appointed member of the Court of Auditors for the period from 1 March 2014 to 29 February 2020.

Article 2

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

Done at Brussels, 27 February 2014.

For the Council

The President

D. KOURKOULAS

[1] Opinion of 25 February 2014 (not yet published in the Official Journal).

COMMISSION IMPLEMENTING DECISION

of 4 February 2014

repealing Decision 2000/745/EC accepting undertakings offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of certain polyethylene terephthalate (PET) originating, inter alia, in India

(2014/109/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community [1] (the 'basic anti-subsidy Regulation'), and in particular Articles 13 thereof,

After consulting the Advisory Committee,

Whereas:

A. EXISTING MEASURES

(1) Countervailing measures on imports of polyethylene terephthalate ('PET') originating in India have been in force since 2000 [2]. These measures have been last maintained by Council Implementing Regulation (EU) No 461/2013 [3], following an expiry review.

(2) Anti-dumping measures on imports of PET originating in India have been in force since 2000 [4]. These measures have been last maintained by Council Regulation (EC) No 192/2007 [5], following an expiry review. On 24 February 2012 the Commission initiated a subsequent expiry review. By Implementing Decision 2013/226/EU [6], the Council rejected the Commission's proposal for a Council implementing regulation maintaining the anti-dumping duty on imports of PET originating in, inter alia, India and, thus, the anti-dumping measures expired.

(3) In 2000, by Decision 2000/745/EC [7] the Commission accepted price undertakings ('the undertakings'), offered in connection with both the anti-dumping and anti-subsidy proceedings from, inter alia, the Indian companies: Pearl Engineering Polymers Limited ('Pearl') and Reliance Industries Limited ('Reliance'). In 2005, by Decision 2005/697/EC [8] amending Decision 2000/745/EC, the Commission accepted an undertaking from the Indian company South ASEAN Petrochem Limited which as a result of a merger changed its name to Dhunseri Petrochem & Tea Limited ('Dhunseri') [9].

B. CHANGE IN CIRCUMSTANCES DURING THE IMPLEMENTATION OF THE UNDERTAKINGS

(4) A change in the circumstances during the implementation of the undertakings may justify a decision of the Commission to exercise its power to withdraw the acceptance of the undertakings, as set out in Article 13(9) of the basic anti-subsidy Regulation.

(5) The repeal of the anti-dumping measures and the maintenance of countervailing duties constitute a change in the circumstances under which the undertakings were accepted. The undertakings were accepted in the presence of both anti-dumping and anti-subsidy measures. The core element of the undertakings, the Minimum Import Price ('MIP'), reflects both the dumping and subsidy element. Currently, there is no dumping element. Therefore, the MIP is not at the appropriate level.

C. BREACHES OF THE UNDERTAKING

(6) In addition, one of the Indian companies, Pearl, did not respect its reporting obligation vis-à-vis the Commission. The company failed to submit quarterly sales reports. The Commission is thus unable to effectively monitor the undertaking.

[1] OJ L 188, 18.7.2009, p. 93.
[2] OJ L 301, 30.11.2000, p. 1.
[3] OJ L 137, 23.5.2013, p. 1.
[4] OJ L 301, 30.11.2000, p. 21.
[5] OJ L 59, 27.2.2007, p. 1.
[6] OJ L 136, 23.5.2013, p. 12.
[7] OJ L 301, 30.11.2000, p. 88.
[8] OJ L 266, 11.10.2005, p. 62.
[9] OJ C 335, 11.12.2010, p. 7.

(7) The provisions of the undertaking stipulate that failure to submit reports constitutes a breach of the undertaking. A recent ruling of the Court of Justice [1] also confirmed that reporting obligations must be regarded as primary obligations for the proper functioning of an undertaking.

(8) The acceptance of Pearl's undertaking has to be withdrawn also on this basis.

D. **WRITTEN SUBMISSIONS**

(9) The three companies were granted the opportunity to be heard and make written submissions. Two Indian companies and the Committee of PET Manufacturers in Europe (CPME), representing the Union industry, commented.

1. **Changed circumstances as a ground for withdrawing the acceptance of an undertaking**

(10) One company claimed that the proposal to withdraw the acceptance of the undertaking lacked a legal basis. That party claimed that Article 13(9) of the basic anti-subsidy Regulation did not explicitly mention 'changed circumstances' and linked any possibility to withdraw the acceptance of the undertaking with instances of breach. This argument had to be rejected. Article 13(9) of the basic anti-subsidy Regulation indeed does not explicitly mention 'change in circumstances'. However, it clearly does not limit the instances in which the Commission may withdraw the acceptance of an undertaking to instances of breach. It states that '[i]n case of breach or withdrawal of undertakings by any party to the undertaking, or in case of withdrawal of acceptance of the undertaking by the Commission [emphasis added], the acceptance of the undertaking shall, after consultation, be withdrawn…'. It therefore singles out the withdrawal of acceptance of an undertaking as a stand-alone basis for withdrawal.

(11) In fact, the Commission's discretionary powers to accept or reject an undertaking offer have to be mirrored by the power to withdraw the acceptance of an undertaking, should the circumstances on the basis of which the undertaking offers were accepted change. According to the case-law of the Court, 'it is for the institutions, in the exercise of their discretionary power, to determine whether […] undertakings are acceptable.' [2]. That discretionary power is in general wide in the sphere of measures to protect trade, because the Union Courts recognize that in that sphere, the Institutions have to examine complex economic, political and legal situations. More specifically, the Court held that the Commission, 'when exercising the powers assigned to it in [the basic Regulation], has a very wide discretion to decide, in terms of the interests of the Community, any measures needed to deal with the situation which it has established.' [3]. Hence, the Commission, when accepting, rejecting or withdrawing an undertaking, enjoys the discretion necessary in order to be able to implement trade measures in the Union interest.

(12) The Commission therefore rejects the argument that a change in circumstances, as compared to those which prevailed at the time of the acceptance of the undertaking, cannot serve as a ground for withdrawal of that acceptance.

2. **Consistency of the withdrawal with previous legal acts concerning the same proceeding**

(13) One company claimed that Commission Decision 2013/223/EU [4] reconfirmed the acceptance of its undertaking. A related argument was that Article 2(2) of the Implementing Regulation (EU) No 461/2013 imposing a definitive countervailing duty constituted another recognition that the undertaking could remain in force after the expiry of the anti-dumping duties. Both arguments are misguided. By Decision 2013/223/EU, the Commission withdrew the acceptance of the undertakings of one Indonesian and one Indian company that violated their reporting obligations. A withdrawal for one company does not in any way preclude a subsequent decision of the Commission to withdraw acceptance of other undertakings should such action be warranted in light of circumstances of a particular case.

(14) Consequently, Implementing Regulation (EU) No 461/2013, published on 23 May 2013 reflected the amendment of Decision 2000/745/EC due to the adoption of Decision 2013/223/EU (withdrawal for one Indonesian and one Indian company). Implementing Regulation (EU) No 461/2013 imposing a definitive countervailing duty was published on the same day as Implementing Decision 2013/226/EU by which the Council repealed the anti-dumping duty. The consequences of the latter decision could only be assessed by the Commission after its adoption.

[1] Judgment of the Court of 22 November 2012 in case C-522/10 P *Usha Martin Ltd* v *Council of the European Union and European Commission*, not yet reported.

[2] Case 256/84 *Koyo Seiko* v *Council* [1987] ECR 1912, paragraph 26; Case 255/84 *Nachi Fujikoshi* v *Council* [1987] ECR 1884, paragraph 42; Case 240/84 *Toyo* v *Council* [1987] ECR 1849, paragraph 34.

[3] Case 191/82 *Fediol* v *Commission* [1983] ECR 2913, paragraph 26; see also Case T-162/94 *NMB France and Others* v *Commission* [1996] ECR II-427, paragraph 72; Case T-97/95 *Sinochem* v *Council* [1998] ECR II-85, paragraph 51; and Case T-118/96 *Thai Bicycle* v *Council* [1998] ECR II-2991, paragraph 32.

[4] OJ L 135, 22.5.2013, p. 19.

(15) The arguments of the party had to be thus rejected.

3. **Mathematical adaptation of the MIP**

(16) One company requested that the Commission should deduct from the MIP an amount corresponding to the fixed anti-dumping duty and thereby bring the MIP in compliance with the underlying measure — countervailing duty. Such an operation could not be performed. First and foremost, under the terms of the undertaking any revision of the scope and the minimum prices is only possible through an interim review in accordance with Article 19 of the basic anti-subsidy Regulation. Secondly, the company requested a mere deduction from the current MIP of amounts corresponding to the amount of the fixed anti-dumping duty. In the current undertaking the MIP and the indexation mechanism are based either on the non-injurious price established for the Union market (target price) or on the normal value (depending on the company in question) as determined in 1999. In the latter case, since the anti-dumping duty expired the whole basis for the MIP is non-existent. Had the undertaking been assessed only with regard to the countervailing duty, the export price (increased by the amount of the fixed countervailing duty) could have become a benchmark for the MIP. In order to establish an appropriate MIP, the Commission would have to first identify export price that would serve as a benchmark. No such benchmark can be easily identified in the present case, not least because measures have been in force for a long time. Further, the indexation mechanism currently in place that relates to the non-injurious price (target price) or the normal value cannot be simply transposed to the export price. Any simple mathematical adaptation would have required that all elements necessary to calculate the MIP are easily identifiable and undisputable. Only then the Commission can guarantee the equivalence of the undertaking to the measure in force. This condition is not fulfilled in the present case. A simple mathematical operation as suggested by the applicant is therefore impossible.

(17) The Commission has to act timely with regard to the undertaking in force in order to follow the decision of the Council to repeal the anti-dumping duties in force. Therefore, any further delay has to be avoided. The withdrawal of the acceptance of the undertaking does not prejudice any possible future decision, should a company wish to submit an undertaking offer.

(18) Following the second disclosure of the Commission's findings, one party reiterated that the minimum import price should be decreased by a simple mathematical operation. It contested the Commission's reasoning in that regard as 'misplaced and lacking any basis'. However, that position has not been substantiated any further and thus has to be rejected. In any case, the claim has been address in recital 16 above.

(19) Consequently, the claim to mathematically adjust the MIP had to be rejected.

4. **Pending case T-422/13**

(20) One company claimed that undertakings should remain in force pending the decision of the General Court in case T-422/13 *CPME and Others* v *Council*. According to that company, should the Union industry be successful in their challenge of Council Implementing Decision 2013/226/EU repealing the anti-dumping duties, the Commission would be under obligation to reinstate the undertaking. This argument is misguided. The Commission has to assess the current situation and act timely in order to follow the decision of the Council to repeal the anti-dumping measures. An anticipation of a possible outcome of a court case cannot guide Commission's decisions in that regard. In view of this fact, the decision concerning the undertakings in force has to be taken in a timely manner.

5. **Breaches of the undertaking**

(21) One company claimed that breach of reporting obligations by one company should not have any consequences upon other companies. It is hereby confirmed that only the company Pearl was found in breach of its reporting obligations.

6. **Possible review and undertakings**

(22) Two Indian companies claimed that undertakings should remain in force pending the results of a possible interim review of the MIP. The Commission notes that because the anti-dumping duty expired the basis for the MIP has become non-existent (see recital 16 above). A decision to address the effects of this change has to be taken in a timely manner. In parallel, a company can request a review of the measure in place and in that context offer a new undertaking concerning only the anti-subsidy measures in force.

(23) Following the second disclosure of the Commission's findings, one party reiterated that the Commission should have initiated an ex-officio interim review while the undertaking should remain in force pending the outcome of such review.

(24) The Commission notes first and foremost that the initiation of an anti-subsidy review investigation lies within its discretionary powers. However, in this particular case a review investigation is linked to the wish of an exporter to offer a new undertaking. Thus, the Commission has no reason to initiate a review without a new undertaking offer from the exporter concerned, in line with Article 13 of the basic Regulation.

(25) Further, as an equivalent form of measures, an undertaking has to correspond to the underlying measure imposed by the Council. This is no longer the case and thus has led the Commission to propose to withdraw the undertaking in force.

(26) Parties can indeed request an interim review based on the provisions of the basic anti-subsidy regulation and any possible new undertaking offer would be considered in the framework of any such review.

7. **Anti-subsidy duty as a barrier to imports**

(27) Following the second disclosure of the Commission's findings, one party claimed that the withdrawal of the acceptance of the undertaking 'rather than reducing the level of protection in line with the expiry of the anti-dumping measures, (…) [would] make it impossible for users of PET to import'. The Commission notes in that regard that in the absence of an undertaking, the minimum import price ceases to be a benchmark for an exporter. The party did not substantiate why the countervailing duty would prevent Indian exporters from importing. In any case, the purpose of imposing measures and accepting an undertaking, if appropriate, is not about the possibility of users to import. The purpose is establishing a level of protection, as the party notes. The interests of users have been assessed under the Union interest for imposing measures together with the interests of all other parties concerned. It has been concluded that the imposition of measures is not against the Union interest. The argument had to be therefore rejected.

8. **Conclusion on submissions by parties**

(28) None of the arguments raised by interested parties was such as to alter the Commission's proposal to withdraw the acceptance of the undertaking.

E. **REPEAL OF DECISION 2000/745/EC**

(29) In view of the above, the acceptance of the undertakings should be withdrawn and Decision 2000/745/EC should be repealed. Accordingly, the definitive countervailing duties imposed by Article 1(2) of Implementing Regulation (EU) No 461/2013 should apply to imports of PET produced by the companies Dhunseri, Reliance and Pearl (TARIC additional code A585 for Dhunseri, TARIC additional code A181 for Reliance and TARIC additional code A182 for Pearl.),

HAS ADOPTED THIS DECISION:

Article 1

Decision 2000/745/EC is repealed.

Article 2

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

Done at Brussels, 4 February 2014.

For the Commission
The President
José Manuel BARROSO

COMMISSION DECISION

of 25 February 2014

amending Decision 2007/479/EC on the compatibility with Union law of the measures taken by Belgium pursuant to Article 3a(1) of Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

(2014/110/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) ([1]) and in particular Article 14(2) thereof,

Whereas:

(1) By Decision 2007/479/EC ([2]), the Commission decided that measures pursuant to Article 3a(1) of Council Directive 89/552/EEC ([3]) notified by Belgium to the Commission on 10 December 2003 are compatible with Community law. That decision was upheld by the Court of Justice ([4]).

(2) Article 3a of Directive 89/552/EEC has been replaced by Article 14 of Directive 2010/13/EU.

(3) By letter dated 19 November 2013 the Kingdom of Belgium notified the Commission with an Order of 17 January 2013 adopted by the Government of the French Community of Belgium, modifying the measures applying to the French Community of Belgium.

(4) The Commission has verified that the Order of 17 January 2013 adopted by the Government of the French Community of Belgium amounts only to terminological updates and very limited and formal modifications of the same measures originally notified to the Commission in 2003, in respect of which the Commission carried out its review and adopted the Decision mentioned in recital 1. This Order brings only formal and terminological updates to the measures. More specifically, it replaces the title of the measure; replaces, throughout the text, the term 'television broadcasting' by the term 'linear television' services; amends the definition of a 'broadcaster' exercising an exclusive right concerning an event of major importance (without by this terminological change covering other broadcasters than those covered in the originally notified measures); and restates the latter's right to broadcast such events on a linear service that does not qualify as free television subject to their exploitation having been offered to providers of such services.

(5) The Commission informed the other Member States that the Government of the French Community of Belgium intended to adopt and finally adopted amending measures, as referred to in recital 3, at the 34th and 38th meetings of the Committee established pursuant to Article 29 of Directive 2010/13/EU,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2007/479/EC is amended as follows:

(1) Article 1 is replaced by the following:

'*Article 1*

The measures pursuant to Article 3a(1) of Directive 89/552/EEC notified by Belgium to the Commission on 10 December 2003, as published in the *Official Journal of the European Union* C 158 of 29 June 2005 and modified by a measure published in the *Moniteur belge* of 19 March 2013 [C-2013/29212], p. 16401, and notified to the Commission pursuant to Article 14(2) of Directive 2010/13/EU of the European Parliament and of the Council (*) on 26 November 2013, are compatible with Union law.

([1]) OJ L 95, 15.4.2010, p. 1.

([2]) Commission Decision 2007/479/EC of 25 June 2007 on the compatibility with Community law of measures taken by Belgium pursuant to Article 3a(1) of Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 180, 10.7.2007, p. 24).

([3]) Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities (OJ L 298, 17.10.1989, p. 23).

([4]) Case C-204/11 P *FIFA* v *Commission*, judgment of 18 July 2013, not yet reported.

(*) Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).';

(2) the following Article 3 is added:

'*Article 3*

The measures taken by Belgium, modifying the measures taken pursuant to Article 3a(1) of Directive 89/552/EEC, and set out in Annex A, shall be published in the *Official Journal of the European Union* in accordance with Article 14(2) of Directive 2010/13/EU.';

(3) Annex A is added in accordance with the Annex to this Decision.

Article 2

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

Done at Brussels, 25 February 2014.

For the Commission

The President

José Manuel BARROSO

ANNEX

'ANNEX A

Publication pursuant to Article 14 of Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)

The provisions adopted by Belgium modifying the measures taken under Article 3(a) of Directive 89/552/EEC are presented in the Order of the Government of the French Community of 17 January 2013, published in the *Moniteur belge/Belgisch Staatsblad* of 19 March 2013.

17 JANUARY 2013 — Order of the Government of the French Community amending the Order of the Government of the French Community of 8 June 2004 designating events of major importance and laying down the arrangements for their access by the public in the French Community via a free-access television broadcaster

Article 1. The title of the Order of the Government of the French Community of 8 June 2004 designating events of major importance and laying down the arrangements for their access by the public in the French Community via a free-access television broadcaster is replaced by the following:

"Order establishing the list of events of major importance and the arrangements for broadcasting them".

Article 2. Article 2 of the Order is replaced by the following:

"A broadcaster of linear television services, including RTBF, intending to exercise the exclusive broadcasting rights it holds to an event of major importance must broadcast it on a free-access linear television service in accordance with the Annex to this Order."

Article 3. The following Article 2(a) is added to the Order:

"§ 1. A broadcaster of linear television services wishing to exercise the exclusive rights to an event listed in the Annex may broadcast it on a linear television broadcasting service which is not free to access as long as the following conditions have been met:

— the event has already been offered to broadcasters of linear television services with a view to its broadcast on a free-access linear television service in accordance with the conditions set out in the Annex to this Order;

— this offer was made within a reasonable time-frame and under conditions (in particular financial conditions) that take into account the market for broadcasting rights;

— the broadcasters of linear television services to which the broadcasting rights were offered did not intend to acquire these rights within a reasonable time.

§ 2. In the event of disagreement between the broadcaster of linear television services holding the exclusive rights to an event and a free-access broadcaster of linear television services with regard to the conditions (in particular the financial conditions) in the broadcasting offer, the matter shall be referred to the competent judicial or administrative authority or to arbitration. If the free-access broadcaster of linear television services refuses to accept the acquisition conditions laid down by this authority or by the arbitration authority, the holder of the exclusive rights to the event may broadcast the event in question on a linear television broadcasting service which is not free to access."

Article 4. Article 3 of the Order is replaced by the following:

"§ 1. A broadcaster of linear television services which has acquired the live-and-in-full transmission rights to an event may postpone the broadcasting of this event on a free-access linear television broadcasting service in the following cases:

— if the event takes place between midnight and 8 a.m., Belgian time;

— if the event coincides with a news or current affairs programme normally broadcast by the service at that time;

— the event comprises several elements taking place simultaneously.

§ 2. Where a broadcaster of linear television services which makes use of § 1 above has acquired its live-and-in-full transmission rights pursuant to Article 2(a) above, the broadcaster of linear television services that has ceded its exclusive rights pursuant to Article 2(a) is authorised to broadcast the event if it so wishes on a linear television service that is not free to access".

Article 5. In Article 4 of the Order, the words "the television broadcasting services of the French Community" are replaced by the words "broadcasters of linear television services".

Article 6. The Minister with responsibility for audiovisual affairs is responsible for the implementation of this Order.

Brussels, 17 January 2013.

Minister for Culture, Audiovisual Affairs, Health and Equal Opportunities

Mrs F. LAANAN'

CORRIGENDA

Corrigendum to Commission Implementing Decision 2012/830/EU of 7 December 2012 on an additional financial contribution towards Member States' fisheries control, inspection and surveillance programmes for 2012

(Official Journal of the European Union L 356 of 22 December 2012)

On page 82, Annex I should read as follows:

'ANNEX I

NEW TECHNOLOGIES & IT NETWORKS

(EUR)

Member State & project code	Expenditure planned in the national fisheries control additional programme	Expenditure for projects selected under this Decision	Maximum Union contribution
Belgium:			
BE/12/08	30 000	30 000	27 000
BE/12/09	4 250	4 250	3 825
BE/12/10	100 000	0	0
Subtotal	***134 250***	***34 250***	***30 825***
Bulgaria:			
BG/12/02	30 678	30 678	27 610
Subtotal	***30 678***	***30 678***	***27 610***
Denmark:			
DK/12/20	336 419	0	0
DK/12/22	269 136	0	0
DK/12/23	538 271	0	0
DK/12/24	134 568	134 568	121 111
DK/12/25	95 637	0	0
DK/12/26	158 911	0	0
DK/12/27	275 864	275 864	248 278
DK/12/28	272 500	272 500	245 250
DK/12/29	281 265	281 265	250 000
DK/12/30	282 592	282 592	250 000
DK/12/31	280 439	280 439	250 000
DK/12/32	296 049	296 049	250 000
DK/12/33	262 407	262 407	235 870
DK/12/34	269 136	269 136	242 222
DK/12/35	22 000	22 000	19 800
DK/12/36	405 000	405 000	250 000
DK/12/37	375 000	375 000	250 000
DK/12/38	163 500	163 500	147 150
Subtotal	***4 718 694***	***3 320 319***	***2 759 681***
Germany:			
DE/12/23	400 000	400 000	360 000
DE/12/24	165 000	0	0
DE/12/25	250 000	0	0
DE/12/27	358 000	0	0
DE/12/28	110 000	0	0
DE/12/29	350 000	0	0
DE/12/30	95 000	0	0
DE/12/31	443 100	0	0
DE/12/32	650 000	0	0
DE/12/33	970 000	0	0

(EUR)

Member State & project code	Expenditure planned in the national fisheries control additional programme	Expenditure for projects selected under this Decision	Maximum Union contribution
DE/12/34	275 000	0	0
DE/12/35	420 000	0	0
Subtotal	***4 486 100***	***400 000***	***360 000***
Ireland:			
IE/12/06	20 000	0	0
IE/12/08	70 000	0	0
Subtotal	***90 000***	*0*	*0*
Greece:			
EL/12/11	180 000	180 000	162 000
EL/12/12	750 000	750 000	675 000
EL/12/13	180 000	180 000	162 000
EL/12/14	26 750	26 750	24 075
EL/12/15	110 000	110 000	99 000
Subtotal	***1 246 750***	***1 246 750***	***1 122 075***
Spain:			
ES/12/02	939 263	939 263	845 336
ES/12/03	974 727	974 727	877 255
ES/12/05	795 882	795 883	716 294
ES/12/06	759 305	759 305	683 375
ES/12/08	163 250	163 250	146 925
ES/12/09	72 000	72 000	64 800
ES/12/10	100 000	100 000	90 000
ES/12/11	379 000	379 000	341 100
ES/12/12	490 000	490 000	441 000
ES/12/13	150 000	150 000	135 000
ES/12/15	150 000	0	0
ES/12/18	54 000	54 000	48 600
ES/12/19	290 440	290 440	261 396
ES/12/21	17 500	17 500	15 750
ES/12/22	681 000	0	0
ES/12/23	372 880	372 880	335 592
ES/12/24	415 254	0	0
Subtotal	***6 804 501***	***5 558 247***	***5 002 423***
France:			
FR/12/08	777 600	777 600	699 840
FR/12/09	870 730	870 730	783 656
FR/12/10	229 766	229 766	206 789
FR/12/11	277 395	277 395	249 656
FR/12/12	230 363	230 363	207 327
FR/12/13	197 403	197 403	177 663
FR/12/14	450 000	450 000	405 000
FR/12/15	211 500	0	0
FR/12/16	274 330	274 330	246 897

(EUR)

Member State & project code	Expenditure planned in the national fisheries control additional programme	Expenditure for projects selected under this Decision	Maximum Union contribution
FR/12/17	254 350	0	0
Subtotal	***3 773 437***	***3 307 587***	***2 976 828***
Italy:			
IT/12/13	135 000	135 000	121 500
IT/12/15	125 000	125 000	112 500
IT/12/16	withdrawn	0	0
IT/12/17	250 000	250 000	225 000
IT/12/18	250 000	0	0
IT/12/19	630 000	630 000	567 000
IT/12/21	1 500 000	1 500 000	1 350 000
IT/12/22	311 000	0	0
IT/12/23	38 000	0	0
IT/12/26	1 900 000	0	0
Subtotal	***5 139 000***	***2 640 000***	***2 376 000***
Latvia:			
LV/12/02	6 732	6 732	6 058
LV/12/03	58 350	58 350	52 515
Subtotal	**65 082**	**65 082**	**58 573**
Lithuania:			
LT/12/04	150 462	150 462	135 416
Subtotal	***150 462***	***150 462***	***135 416***
Malta:			
MT/12/04	30 000	30 000	27 000
MT/12/07	261 860	261 860	235 674
Subtotal	***291 860***	***291 860***	***262 674***
Netherlands:			
NL/12/07	250 000	250 000	225 000
NL/12/08	278 172	0	0
NL/12/09	277 862	0	0
NL/12/10	286 364	0	0
NL/12/11	276 984	0	0
NL/12/12	129 398	0	0
NL/12/13	129 500	0	0
NL/12/14	200 000	0	0
NL/12/15	230 000	0	0
NL/12/16	136 329	0	0
NL/12/17	19 300	0	0
NL/12/18	36 120	0	0
NL/12/19	89 860	0	0
NL/12/20	299 550	0	0
Subtotal	***2 639 439***	***250 000***	***225 000***
Austria:			
AT/12/01	128 179	128 179	115 361

(EUR)

Member State & project code	Expenditure planned in the national fisheries control additional programme	Expenditure for projects selected under this Decision	Maximum Union contribution
AT/12/02	280 923	0	0
Subtotal	***409 102***	***128 179***	***115 361***
Poland:			
PL/12/02	103 936	0	0
PL/12/04	41 028	0	0
PL/12/06	15 955	0	0
PL/12/07	40 500	0	0
PL/12/08	1 000 000	1 000 000	900 000
PL/12/09	172 600	0	0
PL/12/10	1 505 000	0	0
PL/12/11	208 760	0	0
PL/12/12	227 350	0	0
PL/12/13	240 300	0	0
PL/12/14	323 000	323 000	290 700
PL/12/15	181 000	0	0
PL/12/16	416 000	0	0
Subtotal	***4 475 429***	***1 323 000***	***1 190 700***
Portugal:			
PT/12/08	25 000	25 000	22 500
PT/12/10	150 000	150 000	135 000
PT/12/11	150 000	0	0
Subtotal	***325 000***	***175 000***	***157 500***
Finland:			
FI/12/11	1 000 000	1 000 000	900 000
FI/12/12	1 000 000	1 000 000	900 000
FI/12/13	280 000	280 000	252 000
FI/12/14	280 000	0	0
Subtotal	***2 560 000***	***2 280 000***	***2 052 000***
Sweden:			
SE/12/07	850 000	850 000	765 000
SE/12/08	750 000	750 000	675 000
SE/12/09	300 000	300 000	270 000
SE/12/10	1 000 000	1 000 000	900 000
SE/12/11	80 000	0	0
Subtotal	***2 980 000***	***2 900 000***	***2 610 000***
United Kingdom:			
UK/12/51	122 219	122 219	109 997
UK/12/52	564 086	0	0
UK/12/54	50 141	50 141	45 127
UK/12/55	43 873	43 873	39 486
UK/12/56	122 219	122 219	109 997
UK/12/73	12 535	12 535	11 282
UK/12/74	162 958	162 958	146 662
Subtotal	***1 078 032***	***513 945***	***462 551***
Total	**41 397 816**	**24 615 360**	**21 925 217'**

2014/110/EU:

★ **Commission Decision of 25 February 2014 amending Decision 2007/479/EC on the compatibility with Union law of the measures taken by Belgium pursuant to Article 3a(1) of Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities** 39

Corrigenda

★ **Corrigendum to Commission Implementing Decision 2012/830/EU of 7 December 2012 on an additional financial contribution towards Member States' fisheries control, inspection and surveillance programmes for 2012** (OJ L 356, 22.12.2012) 43

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