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## Legislation

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

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## II

(Non-legislative acts)

## REGULATIONS

## COMMISSION REGULATION (EU) No 944/2014

of 2 September 2014

**establishing a prohibition of fishing for greater forkbeard in EU and international waters of V, VI and VII by vessels flying the flag of Spain**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy <sup>(1)</sup>, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) No 1262/2012 <sup>(2)</sup> lays down quotas for 2014.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2014.
- (3) It is therefore necessary to prohibit fishing activities for that stock,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2014 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2*

**Prohibitions**

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

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

<sup>(2)</sup> Council Regulation (EU) No 1262/2012 of 20 December 2012 fixing for 2013 and 2014 the fishing opportunities for EU vessels for certain deep-sea fish stocks (OJ L 356, 22.12.2012, p. 22).

## Article 3

**Entry into force**

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, 2 September 2014.

For the Commission,  
On behalf of the President,  
Lowri EVANS  
Director-General for Maritime Affairs and Fisheries

## ANNEX

No	24/DSS
Member State	Spain
Stock	GFB/567-
Species	Greater Forkbeard ( <i>Phycis blennoides</i> )
Zone	EU and international waters of V, VI and VII
Closing date	12.8.2014

**COMMISSION IMPLEMENTING REGULATION (EU) No 945/2014****of 4 September 2014****laying down implementing technical standards with regard to relevant appropriately diversified indices according to Regulation (EU) No 575/2013 of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 <sup>(1)</sup> and in particular the third subparagraph of Article 344(1) thereof,

Whereas:

- (1) Pursuant to Article 344(4) of Regulation (EU) No 575/2013, the specific risk of a stock-index future which would be treated as an individual equity in accordance with that Article can be ignored where the relevant stock-index is exchange traded and represents a relevant appropriately diversified index.
- (2) Where an exchange traded stock-index future is appropriately diversified, it can be assumed that such stock-index represents no specific risk. This is considered to be the case where the index contains at least 20 equities, no single entity contained within them represents more than 25 % of the total index and 10 % of the largest equities (rounding up the number of equities to the superior natural number) represent less than 60 % of the total index. In addition, the index must encompass equities from at least a national market, and they must comprise equities from at least four industries amongst oil and gas, basic materials, industrials, consumer goods, health care, consumer services, telecommunications, utilities, financials and technology.
- (3) Given that Article 344(4) of Regulation (EU) No 575/2013 refers to 'relevant' eligible indices, only those stock indices which are relevant for financial institutions in the Union have been assessed against the criteria for identifying eligible stock indices.
- (4) This Regulation is based on the draft implementing technical standards submitted by the European Banking Authority to the Commission.
- (5) The European Banking Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council <sup>(2)</sup>,

HAS ADOPTED THIS REGULATION:

*Article 1***Stock indices for the purposes of Article 344 of Regulation (EU) No 575/2013**

The list of stock indices, for which the treatments set out in the second sentence of Article 344(4) of Regulation (EU) No 575/2013 is available, are provided in the Annex.

<sup>(1)</sup> OJ L 176, 27.6.2013, p. 1.<sup>(2)</sup> OJ L 331, 15.12.2010, p. 12.

*Article 2***Entry into Force**

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

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

Done at Brussels, 4 September 2014.

*For the Commission*

*The President*

José Manuel BARROSO

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## ANNEX

**Stock indices meeting the requirements of Article 344 of Regulation (EU) No 575/2013**

Index	Country
1. S&P All Ords	Australia
2. ATX	Austria
3. BEL20	Belgium
4. SaoPaulo — Bovespa	Brazil
5. TSE35	Canada
6. FTSE China A50 Index	China
7. CROBEX	Croatia
8. OMX Copenhagen 20 CAP	Denmark
9. DJ Euro STOXX 50	Europe
10. FTSE Eurofirst 100	Europe
11. FTSE Eurofirst 80	Europe
12. FTSE Eurotop 100 index	Europe
13. MSCI Euro index	Europe
14. STOXX Europe 50	Europe
15. STOXX Europe 600	Europe
16. STOXX Europe Lrg 200	Europe
17. STOXX Europe Mid 200	Europe
18. STOXX Europe Small 200	Europe
19. STOXX Select Dividend 30	Europe
20. CAC40	France
21. SBF 120	France
22. DAX	Germany
23. HDAX	Germany
24. MDAX	Germany
25. SDAX	Germany
26. Athens General	Greece

Index	Country
27. Hang Seng	Hong Kong
28. Hang Seng China Enterprises	Hong Kong
29. NIFTY	India
30. FTSE MIB	Italy
31. FTSE Bursa Malaysia	Malaysia
32. MSE Share Index	Malta
33. Nikkei225	Japan
34. Nikkei300	Japan
35. IPC Index	Mexico
36. AEX	Netherlands
37. AMX	Netherlands
38. WIG20	Poland
39. PSI 20	Portugal
40. Straits Times Index	Singapore
41. IBEX35	Spain
42. OMX Stockholm 30	Sweden
43. SMI	Switzerland
44. FTSE nasdaq Dubai 20	UAE
45. FTSE 100	UK
46. FTSE mid-250	UK
47. S&P 500	USA
48. Dow Jones Ind. Av.	USA
49. NASDAQ 100	USA

**COMMISSION IMPLEMENTING REGULATION (EU) No 946/2014****of 4 September 2014****amending Council Implementing Regulation (EU) No 1008/2011 imposing a definitive anti-dumping duty on imports of hand pallet trucks and their essential parts originating in the People's Republic of China following a 'new exporter' review pursuant to Article 11(4) of Council Regulation (EC) No 1225/2009**

THE EUROPEAN COMMISSION,

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

Whereas:

**1. PROCEDURE****1.1. Previous investigations and existing anti-dumping measures**

- (1) In July 2005, by Regulation (EC) No 1174/2005 <sup>(2)</sup> the Council imposed a definitive anti-dumping duty on imports of hand pallet trucks and their essential parts originating in the People's Republic of China (the PRC). The measures consisted of an ad valorem anti-dumping duty ranging between 7,6 % and 46,7 %.
- (2) In July 2008, by Regulation (EC) No 684/2008 <sup>(3)</sup> the Council, following a product scope interim review, clarified the product scope of the original investigation.
- (3) In June 2009, by Regulation (EC) No 499/2009 <sup>(4)</sup> the Council, following an anti-circumvention investigation, extended the definitive anti-dumping duty applicable to 'all other companies' imposed by Regulation (EC) No 1174/2005 to hand pallet trucks and their essential parts consigned from Thailand whether declared as originating in Thailand or not.
- (4) In October 2011, by Implementing Regulation (EU) No 1008/2011 <sup>(5)</sup>, the Council imposed a definitive anti-dumping duty on imports of hand pallet trucks and their essential parts originating in the PRC following an expiry review pursuant to Article 11(2) of the basic Regulation. The extended duty as mentioned in recital 3 above was also maintained by Implementing Regulation (EU) No 1008/2011.
- (5) The measures currently in force are an anti-dumping duty imposed by Council Implementing Regulation (EU) No 1008/2011 following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (the expiry review investigation) as amended by Council Implementing Regulation (EU) No 372/2013 <sup>(6)</sup> following an interim review pursuant to Article 11(3) of the basic Regulation (the interim review investigation). The duty rate on imports into the Union of hand pallet trucks and their essential parts originating in the People's

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

<sup>(2)</sup> Council Regulation (EC) No 1174/2005 of 18 July 2005 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of hand pallet trucks and their essential parts originating in the People's Republic of China (OJ L 189, 21.7.2005, p. 1).

<sup>(3)</sup> Council Regulation (EC) No 684/2008 of 17 July 2008 clarifying the scope of the anti-dumping measures imposed by Regulation (EC) No 1174/2005 on imports of hand pallet trucks and their essential parts originating in the People's Republic of China (OJ L 192, 19.7.2008, p. 1).

<sup>(4)</sup> Council Regulation (EC) No 499/2009 of 11 June 2009 extending the definitive anti-dumping duty imposed by Regulation (EC) No 1174/2005 on imports of hand pallet trucks and their essential parts originating in the People's Republic of China to imports of the same product consigned from Thailand, whether declared as originating in Thailand or not (OJ L 151, 16.6.2009, p. 1).

<sup>(5)</sup> Council Implementing Regulation (EU) No 1008/2011 of 10 October 2011 imposing a definitive anti-dumping duty on imports of hand pallet trucks and their essential parts originating in the People's Republic of China as extended to imports of hand pallet trucks and their essential parts consigned from Thailand, whether declared as originating in Thailand or not, following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 (OJ L 268, 13.10.2011, p. 1).

<sup>(6)</sup> Council Implementing Regulation (EU) No 372/2013 of 22 April 2013 amending Implementing Regulation (EU) No 1008/2011 imposing a definitive anti-dumping duty on imports of hand pallet trucks and their essential parts originating in the People's Republic of China following a partial interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009 (OJ L 112, 24.4.2013, p. 1).

Republic of China ('the country concerned' or 'the PRC') is currently 70,8 %. The measures are also applicable to imports of hand pallet trucks and their essential parts consigned from Thailand whether declared as originating in Thailand or not pursuant to Council Regulation (EC) No 499/2009 following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation.

### 1.2. Request for a review

- (6) The European Commission (the Commission) received a request for a 'new exporter' review under Article 11(4) of the basic Regulation. The request was lodged on 3 May 2013 by Ningbo Logitrans Handling Equipment Co., Ltd (the applicant), an exporting producer of hand pallet trucks and their essential parts in the PRC.
- (7) The applicant claimed that it operated under market economy conditions as defined in Article 2(7)(c) of the basic Regulation.
- (8) It further claimed that it did not export hand pallet trucks and their essential parts to the Union during the investigation period on which the anti-dumping measures were based, namely from 1 April 2003 to 31 March 2004 ('the investigation period of original investigation'). It claimed that it did not export the product concerned also during the investigation period of the subsequent interim review investigation, namely from 1 January 2011 to 31 December 2011.
- (9) Furthermore, the applicant claimed that it was not related to any of the exporting producers of hand pallet trucks and their essential parts which were subject to the above-mentioned anti-dumping measures.
- (10) The applicant further claimed that it begun exporting the hand pallet trucks and their essential parts to the Union after the end of the original investigation period and the investigation period of the subsequent interim review investigation.

### 1.3. Initiation of a new exporter review

- (11) The Commission examined the *prima facie* evidence submitted by the applicant and considered it sufficient to justify the initiation of a review in accordance with Article 11(4) of the basic Regulation. After consultation of the Advisory Committee and after the Union industry concerned was given the opportunity to comment, the Commission initiated a review in accordance with Article 11(4) of the basic Regulation by Commission Regulation (EU) No 32/2014 <sup>(1)</sup>.
- (12) Pursuant to Article 2 of Regulation (EU) No 32/2014, the anti-dumping duty imposed by Council Implementing Regulation (EU) No 1008/2011 as amended by Council Implementing Regulation (EU) No 372/2013 was repealed with regard to imports of hand pallet trucks and their essential parts produced and sold for exports to the Union by the applicant. Simultaneously, pursuant to Article 3 of Regulation (EU) No 32/2014, customs authorities were directed to take appropriate steps to register such imports.
- (13) Regulation (EU) No 32/2014 determined that if the investigation would show that the applicant fulfils the requirements to have an individual duty established, it may be necessary to amend the rate of duty currently applicable under Article 1(2) of Implementing Regulation (EU) No 1008/2011 as amended by Implementing Regulation (EU) No 372/2013.

### 1.4. Product concerned

- (14) The product concerned is hand pallet trucks and their essential parts, i.e. chassis and hydraulics, currently falling within CN codes ex 8427 90 00 (TARIC codes 8427 90 00 11 and 8427 90 00 19) and ex 8431 20 00 (TARIC codes 8431 20 00 11 and 8431 20 00 19) and originating in the PRC (the product concerned).

### 1.5. Parties concerned

- (15) The Commission officially advised the Union industry, the applicant and the representatives of the exporting country of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to be heard.

<sup>(1)</sup> Commission Regulation (EU) No 32/2014 of 14 January 2014 initiating a 'new exporter' review of Council Implementing Regulation (EU) No 1008/2011 imposing a definitive anti-dumping duty on imports of hand pallet trucks and their essential parts originating in the People's Republic of China as amended by Council Implementing Regulation (EU) No 372/2013, repealing the duty with regard to imports of one exporter in this country and making such imports subject to registration (OJ L 10, 15.1.2014, p. 11).

- (16) The Commission sought and verified all the information it deemed necessary for the determination of the new exporter status, market economy conditions and dumping. The Commission sent a market economy treatment claim form and a questionnaire to the applicant and its related companies and received a reply within the deadlines set for that purpose. Verification visits were carried out at the premises of the applicant and the related company in Denmark, Logitrans A/S.

#### 1.6. Review investigation period

- (17) The review investigation period for the determination of dumping covered the period from 1 July 2012 to 31 December 2013 (review investigation period).

### 2. INVESTIGATION

#### 2.1. New exporter qualification

- (18) The investigation confirmed that the applicant did not export the product concerned during both the investigation period of the original investigation, namely from 1 April 2003 to 31 March 2004, and the investigation period of the subsequent interim review, namely from 1 January to 31 December 2011, and that it started to export to the Union after these periods.
- (19) The applicant was furthermore able to demonstrate that it did not have any links, direct or indirect, with any of the Chinese exporting producers subject to the anti-dumping measures in force with regard to the product concerned.
- (20) Accordingly, it is confirmed that the applicant should be considered a 'new exporter' in accordance with Article 11(4) of the basic Regulation, and thus an individual margin should be determined for it.

#### 2.2. Market Economy Treatment (MET)

- (21) Pursuant to Article 2(7)(b) of the basic Regulation the Commission determines normal value in accordance with Article 2(1) to (6) of that Regulation for the exporting producers in the PRC which comply with the criteria in Article 2(7)(c) of that Regulation and could therefore be granted MET.
- (22) The applicant is a privately owned company, wholly owned by a company whose direct shareholders are companies in the European Union. Daily business decisions are taken by the executive director who is a citizen of the European Union and also a member of the board of directors. Major business decisions are taken by board of shareholders. There was neither the presence of any State related official, nor any other State interference by the PRC in the decision making.
- (23) Next, the main input for manufacturing hand pallet trucks and their essential parts in the case of the applicant were semi-finished metal parts from hot rolled carbon steel purchased from various suppliers in the PRC, that is to say already processed into parts hot rolled carbon steel.
- (24) Based on publicly available information <sup>(1)</sup> it was established that the prices of the processed metal parts paid by the applicant were sufficiently high to reflect steel prices on the international market and the added value for the processing of the hot rolled steel into semi-finished metal parts. As a result, the distortion of unprocessed steel prices in the PRC established during the interim review investigation <sup>(2)</sup> was not found to be carried over in the prices of the processed metal parts paid by the applicant in this case.
- (25) On the basis of the above, it was thus concluded that the applicant demonstrated that it fulfilled criterion 1 under Article 2(7)(c) of the basic Regulation.
- (26) In the next place, the applicant had one clear set of basic accounting records which were independently audited in line with international accounting standards and are applied for all purposes. It was thus concluded that the applicant demonstrated that it fulfilled criterion 2 under Article 2(7)(c) of the basic Regulation.

<sup>(1)</sup> Worldsteelprices.com — by Management Engineering & Production Services (MEPS) International Ltd

<sup>(2)</sup> The interim review investigation found that steel prices paid by the cooperating exporting producer in the PRC were significantly distorted and that they did not correspond to international prices, see recital 20 of Regulation (EU) No 372/2013.

- (27) In the next place, the applicant did not have any loans from Chinese financial institutions nor any loans that were not granted under market conditions as regards guarantees, interest rate and other conditions. There were no indications of any other distortions or advantages related to the location or premises or any other State interference in the operation of the applicant. Neither was the applicant considered as a high tech company so that it could potentially receive any State benefit in that capacity. It was thus concluded that the applicant demonstrated that it fulfilled criterion 3 under Article 2(7)(c) of the basic Regulation.
- (28) In the next place, the applicant was found to be subject to the relevant Chinese bankruptcy and property laws, the application of which is designed to guarantee legal certainty and stability for the operation of firms. There were no indications that these laws would not be applicable and implemented for the applicant. It was thus concluded that the applicant demonstrated that it fulfilled criterion 4 under Article 2(7)(c) of the basic Regulation.
- (29) Last, the investigation did not reveal any restrictions concerning the use and conversion of foreign currency. The applicant's foreign exchange transactions were conducted according to market rates and it was able to freely dispose of the usage of its own funds. It was thus concluded that the applicant demonstrated that it fulfilled criterion 5 under Article 2(7)(c) of the basic Regulation.
- (30) On the basis of the above findings, it was concluded that the applicant could be granted MET so that its normal value would be determined in accordance with Article 2(1) to (6) of the basic Regulation.
- (31) The Commission disclosed the results of the MET analysis to the applicant, the authorities of the PRC and the Union industry and gave them the opportunity to provide comments.
- (32) The Union industry claimed that the international steel price based on publicly available information (see recital 24 above) is not a suitable basis for comparison since the prices paid by smaller operators in the steel market would be at least 20 % above the international reference prices. The Union industry further claimed that the price paid for processed metal parts used in the production of hand pallet trucks in the Union would be far above the prices paid by the applicant which in itself would indicate that the price paid by the applicant for such parts would be distorted.
- (33) International reference prices were also used as a basis of comparison in the interim review investigation and no adjustments were made to these prices <sup>(1)</sup>. Indeed, as any premium paid over the international reference prices would depend on individual factors specific to each operator in the market, there is no objective basis to make a general adjustment for an alleged mark up. The claim that international reference prices should be adjusted was therefore rejected.
- (34) As regards the price paid for processed metal parts used in the production of hand pallet trucks in the Union, the supporting evidence submitted by the Union industry could not demonstrate that the price paid by the applicant for such parts would be distorted. This was because, as described in recital 33 above, any premium paid over the international reference prices would depend on individual factors specific to each operator in the market, hence there is no objective basis to make a general adjustment for an alleged mark up. Moreover, the evidence submitted showed a significant number of other factors affecting the price of such metal parts apart from the steel prices which did not allow any conclusion as to the appropriate level of such parts which could be used as a benchmark. Therefore, the argument that prices paid for processed metal parts in the Union would indicate that the price paid by the applicant for such parts would be distorted was rejected.
- (35) The Union industry also argued that the prices of steel in the PRC are subsidised and generally distorted and that this fact in itself would be sufficient to consider prices of further processed metal parts in the PRC also to be distorted.
- (36) According to the jurisprudence of the General Court whilst the Commission can rely on macroeconomic considerations such as raw material price distortions at industry/sector level, the MET determination must be made individually for each company, that is to say assessing whether the prices paid by the individual company for its input reflect market values <sup>(2)</sup>. Furthermore, it was also clarified that the Commission may compare the Chinese domestic average prices of the raw material, with the average international prices in order to determine whether MET should be granted on this ground <sup>(3)</sup>.

<sup>(1)</sup> See recitals 20 to 28 of Implementing Regulation (EU) No 372/2013.

<sup>(2)</sup> Judgment of the General Court of 10 October 2012 in case T-150/09 Ningbo Yonghong Fasteners v Council/Judgment of 10 October 2012 (§ 117).

<sup>(3)</sup> Judgment of the General Court of 10 October in case T-150/09 Ningbo Yonghong Fasteners v Council (§§ 81-95).

- (37) As explained in recital 24 it was established that the observed price distortions in the market of unprocessed steel in the PRC were not found to be carried over in the prices of the processed metal parts paid by the applicant. This approach is in line with the jurisprudence as it considers the individual situation of the applicant and the argument of the Union industry in this regard was therefore rejected.
- (38) Finally, the Union industry claimed that attributing an individual anti-dumping margin to the applicant would constitute a high risk of circumvention as the applicant already purchased hand pallet trucks from another supplier in the PRC and re-exported them to the Union.
- (39) The claim for an increased risk of circumvention was not supported by any evidence. In particular, the applicant was found not to be related to the supplier in question or to any other supplier in the PRC. The investigation did therefore not confirm any increased risk of circumvention in this specific case. Finally, the risk of circumvention *per se* is not a criterion mentioned in Article 2(7)(c) of the basic Regulation and it is therefore not relevant in the determination whether a company qualifies for MET. Consequently, this argument was rejected.
- (40) Following disclosure, the Union industry reiterated its arguments that steel prices based on publicly available information were not a suitable basis for comparison since the prices paid by smaller operators in the steel market would be above the international reference prices and also above the prices paid by the companies that were subject to the interim review investigation mentioned in recital 24 above. The Union industry also claimed that the price comparison made by the Commission referred to in recital 24 did not properly take into consideration the processing cost of the metal parts.
- (41) The claims made by the Union industry were however not supported by any further evidence. Therefore, it was considered that these comments were merely reiteration of the earlier arguments already addressed in recitals 32 to 37 above and they were rejected.

### 2.3. Dumping

#### *Normal value*

- (42) The Commission first examined whether the applicant's total domestic sales volume of the like product to independent customers on the domestic market was representative, namely whether the total volume of such sales represented at least 5 % of its total export sales volume of the product concerned to the Union during the review investigation period in accordance with Article 2(2) of the basic Regulation. The Commission found that the overall sales of the like product on the domestic market were not representative as they were below the 5 % threshold.
- (43) Since there were no representative domestic sales volume, the Commission constructed normal value in accordance with Article 2(3) and (6) of the basic Regulation.
- (44) Normal value was constructed by adding to the average cost of production during the review investigation period the weighted average selling, general and administrative (SG&A) expenses incurred and the weighted average profit realised by the applicant on domestic sales of the like product, in the ordinary course of trade, during the review investigation period.

#### *Export price*

- (45) The applicant exported hand pallet trucks but also their essential parts (hydraulics) which are also product concerned. Exports of hydraulics were of relatively low value and volume during the review investigation period. In addition, the hydraulics were not resold to independent customers by the related company in the Union. Instead, they were used exclusively for the production of hand pallet trucks by the related company in the Union which then sold the finished product (hand pallet trucks) on the Union market. Consequently, there was no resale price for hydraulics. Moreover, since the present review concerns only one company, there was no other data available on the basis of which a resale price of hydraulics could be reasonably established. In light of that, no export price was established for the hydraulics. In agreement with the applicant, the export price established for the hand pallet trucks was considered to be representative for the essential parts, and it was thus used.
- (46) Export sales were made via the related importer in the Union who resold the product further to independent customers in the Union. Therefore, the export price was established in accordance with Article 2(9) of the basic

Regulation on the basis of the price at which the imported product was first resold to independent customers in the Union by deducting all costs, incurred between importation and re-sale (SG&A) and a reasonable profit margin. Actual SG&A of the related importer were used. As regards the reasonable profit margin, in the absence of any other information available, an estimated profit margin of 5 % was used.

- (47) Following disclosure the applicant contested the level of the SG&A related to the sales of the product concerned established during the investigation claiming that higher costs incurred when selling other products should not be attributed to the product concerned. This claim contradicted the verified data. The applicant was also not able to provide an alternative cost allocation, nor any evidence that would support its claim which was therefore rejected.
- (48) Following disclosure, the applicant claimed that despite the relationship between the exporter and the related importer in the Union, the export prices were at arm's length and they should not be considered unreliable. Therefore, the applicant considered that the export price should be established in accordance with the Article 2(8) of the basic Regulation as the price paid by the related importer.
- (49) The evidence provided by the applicant did not support the claim that the price was established at arm's length. Thus, the transfer price between the related companies was not at a level to allow the related importer to make a reasonable profit in the Union. The Commission therefore concluded that the internal transfer price did not reflect the appropriate market value of the product concerned and this claim was rejected.
- (50) Alternatively, also following disclosure the applicant claimed that the anti-dumping duties paid were duly reflected in resale prices and the subsequent selling prices in the Union and, therefore, when constructing the export price the amount for anti-dumping duties paid should not be deducted in line with Article 11(10) of the basic Regulation.
- (51) The evidence provided by the applicant could not, however, demonstrate that the anti-dumping duties were duly reflected in resale prices and the subsequent selling prices in the Union. The evidence suggested a very minimal increase that even occurred after the investigation period. Therefore, this claim was rejected.

#### *Comparison*

- (52) The normal value and the export price were compared on an ex-works basis. For the purpose of ensuring a fair comparison, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation. On this basis, adjustments were made for freight, packing expenses and import charges, including the custom duties (4 %) and anti-dumping duties (46,7 % and 70,8 %, imposed by Implementing Regulation (EU) No 1008/2011 and amended by Implementing Regulation (EU) No 372/2013 respectively) directly on the export price in all cases where demonstrated for differences affecting price comparability. The aforementioned freight and packing expenses are, in accordance with the Article 19 of the basic Regulation, considered as confidential information. However, this information was verified by the Commission and it was found not to deviate from the usual levels.
- (53) Following disclosure the applicant made a claim for a level of trade adjustment based on an alleged difference between sales on the domestic market and on the export market. The applicant claimed that sales on the domestic market were all made to end-users while sales in the Union were made to dealers or importers. The applicant claimed that a special adjustment should be made under Article 2(10)(d)(ii) of the basic Regulation.
- (54) The applicant provided no new or additional information to support its claim. On the basis of the information collected and verified during the investigation it could not be established that the discounts to dealers and importers were linked to a difference in sales functions. Therefore, it could not be demonstrated that the alleged difference in the level of trade had an impact on the sales prices and affected price comparability. On this basis, the claim was rejected.

#### *Dumping margin*

- (55) In accordance with Article 2(11) and (12) of the basic Regulation, the dumping margin was established on the basis of a comparison of a weighted average normal value with the weighted average of export price as established above.

- (56) The comparison showed existence of dumping at a level of 54,1 %, expressed as a percentage of the Cost, Insurance and Freight (CIF) Union-frontier price, duty unpaid.

### 3. AMENDMENT OF THE MEASURES BEING REVIEWED

- (57) The dumping margin as established was below the country-wide injury elimination level which was established for the PRC in the original investigation referred to in recital 1 above. A duty based on the dumping margin should therefore be imposed on imports of hand pallet trucks and their essential parts produced by Ningbo Logitrans Handling Equipment Co., Ltd and Implementing Regulation (EU) No 372/2013 should be amended accordingly.

### 4. REGISTRATION

- (58) In the light of the above findings, the anti-dumping duty as established should be levied retroactively on imports of the product concerned which were made subject to registration pursuant to Article 3 of Regulation (EU) No 32/2014.

### 5. DISCLOSURE AND DURATION OF THE MEASURES

- (59) The parties concerned were informed of the essential facts and considerations on the basis of which it was intended to impose on imports hand pallet trucks and their essential parts from the applicant an amended anti-dumping duty and to levy this duty retroactively on imports made subject to registration. Their comments were considered and taken into account were appropriate.
- (60) This review does not affect the date on which the measures imposed by Implementing Regulation (EU) No 1008/2011 as amended by Implementing Regulation (EU) No 372/2013 will expire pursuant to Article 11(2) of the basic Regulation.
- (61) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation.

HAS ADOPTED THIS REGULATION:

#### *Article 1*

1. In Article 1 of Council Implementing Regulation (EU) No 372/2013, which replaces Article 1(2) of Council Implementing Regulation (EU) No 1008/2011, the following shall be inserted into the table regarding the People's Republic of China:

Company	Rate of duty (%)	TARIC additional code
Ningbo Logitrans Handling Equipment Co., Ltd	54,1 %	A070

2. The duty hereby imposed shall also be levied retroactively on imports of the product concerned which have been registered pursuant to Article 3 of Regulation (EU) No 32/2014.

The customs authorities are hereby directed to cease the registration of imports of the product concerned produced by Ningbo Logitrans Handling Equipment Co., Ltd

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, 4 September 2014.

*For the Commission*

*The President*

José Manuel BARROSO

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**COMMISSION IMPLEMENTING REGULATION (EU) No 947/2014**  
**of 4 September 2014**  
**opening private storage for butter and fixing in advance the amount of aid**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(1)</sup>, and in particular Article 18(2), Article 20(c), (f), (l), (m) and (n), and Article 223(3)(c) thereof,

Having regard to Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products <sup>(2)</sup> and in particular Article 4 thereof,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 <sup>(3)</sup>, and in particular Article 62(2)(b) thereof,

Whereas:

- (1) Article 17(e) of Regulation (EU) No 1308/2013 provides for the granting of private storage aid for butter.
- (2) On 7 August 2014, the Russian government introduced a ban on imports of certain products from the Union to Russia, including dairy products. Developments in prices and stocks of butter indicate a particular difficult market situation which may be eliminated or reduced by storage. In view of the current market situation, it is appropriate to grant aid for private storage for butter and to fix the amount of aid in advance.
- (3) Commission Regulation (EC) No 826/2008 <sup>(4)</sup> has established common rules for the implementation of a private storage aid scheme.
- (4) Pursuant to Article 6 of Regulation (EC) No 826/2008, aid fixed in advance is to be granted in accordance with the detailed rules and conditions provided for in Chapter III of that Regulation.
- (5) In accordance with Article 16(2)(c) of Regulation (EC) No 826/2008 and in order to ensure placing of homogeneous and manageable lots in storage it is appropriate to specify the requirements for a 'storage lot'.
- (6) For reasons of administrative efficiency and simplification and since the required information concerning storage details is already included in the application for aid, it is appropriate to waive the request to supply the same information after the conclusion of the contract as provided for in point (a) of the first paragraph of Article 20 of Regulation (EC) No 826/2008.
- (7) For reasons of simplification and logistic efficiency, Member States should be allowed to waive the requirement to mark the contract number on each unit stored where the contracts number is entered in the stores register.
- (8) For reasons of administrative efficiency and simplification, taking into account the particular situation for butter storage, the checks provided for in Article 36(6) of Regulation (EC) No 826/2008 should be carried out in respect of at least one half of the contracts. Consequently, a derogation from that Article should be provided for.
- (9) In accordance with Article 4 of Regulation (EU) No 1370/2013, the aid for private storage fixed in advance should be based on storage costs and/or other relevant market elements. It is appropriate to set an aid for fixed storage costs for entry and exit of the products concerned and an aid per day of storage for costs for cold storage and financing.

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.

<sup>(2)</sup> OJ L 346, 20.12.2013, p. 12.

<sup>(3)</sup> OJ L 347, 20.12.2013, p. 549.

<sup>(4)</sup> Commission Regulation (EC) No 826/2008 of 20 August 2008 laying down common rules for the granting of private storage aid for certain agricultural products (OJ L 223, 21.8.2008, p. 3).

- (10) In accordance with Article 35(3) of Regulation (EC) No 826/2008 and in order to closely follow the use of the measure it is appropriate to specify the deadline for submitting the notifications provided for in Article 35(1)(a) of that Regulation.
- (11) In order to have an immediate impact on the market and to contribute to stabilise prices, the temporary measure provided for in this Regulation should enter into force on the day following that of its publication.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

1. This Regulation provides for private storage aid for butter as referred to in Article 17(e) of Regulation (EU) No 1308/2013.
2. Regulation (EC) No 826/2008 shall apply save as otherwise provided for in this Regulation.

#### *Article 2*

The unit of measurement referred to in Article 16(2)(c) of Regulation (EC) No 826/2008 is the 'storage lot' which corresponds to the quantity of the product covered by this Regulation, weighing at least 1 tonne and of homogeneous composition and quality, produced in a single factory, taken into storage in a single warehouse on a single day.

#### *Article 3*

1. Point (a) of the first paragraph of Article 20 of Regulation (EC) No 826/2008 shall not apply.
2. Member States may waive the requirements referred to in Article 22(1)(e) of Regulation (EC) No 826/2008 to mark the contract number provided that the store manager undertakes to enter the contract number in the register referred to in point III of Annex I to that Regulation.
3. By way of derogation from Article 36(6) of Regulation (EC) No 826/2008, at the end of the contractual storage period, the authority responsible for checking shall, in respect of at least one half of the number of contracts, by sampling, verify weight and identification of the butter in storage.

#### *Article 4*

1. The aid for the products referred in Article 1 shall be:
  - 18,93 EUR per tonne of storage for fixed storage costs,
  - 0,28 EUR per tonne per day of contractual storage.
2. Contractual storage shall end on the day preceding that of the removal from storage.
3. Aid may be granted only where the contractual storage period is between 90 and 210 days.

#### *Article 5*

Applications for private storage aid for may be lodged as from the date of entry into force of this Regulation. The last date for the submission of applications shall be 31 December 2014.

*Article 6*

Member States shall notify the Commission of the following:

- (a) by each Tuesday for the previous week, the quantities for which contracts have been concluded as well as the quantities of products for which applications to conclude contracts have been submitted, as required under Article 35(1)(a) of Regulation (EC) No 826/2008;
- (b) not later than the end of each month for the previous month, the information on the stocks required under Article 35(1)(b) of the Regulation No 826/2008.

*Article 7*

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, 4 September 2014.

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

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**COMMISSION IMPLEMENTING REGULATION (EU) No 948/2014****of 4 September 2014****opening private storage for skimmed milk powder and fixing in advance the amount of aid**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(1)</sup>, and in particular Article 18(2), Article 20(c), (f), (l), (m) and (n), and Article 223(3)(c) thereof,

Having regard to Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products <sup>(2)</sup> and in particular Article 4 thereof,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 <sup>(3)</sup>, and in particular Article 62(2)(b) thereof,

Whereas:

- (1) Article 17(g) of Regulation (EU) No 1308/2013 provides for the granting of private storage aid for skimmed milk powder.
- (2) On 7 August 2014, the Russian government introduced a ban on imports of certain products from the Union to Russia, including dairy products. Developments in prices and stocks of skimmed milk powder indicate a particular difficult market situation which may be eliminated or reduced by storage. In view of the current market situation, it is appropriate to grant aid for private storage for skimmed milk powder and to fix the amount of aid in advance.
- (3) Commission Regulation (EC) No 826/2008 <sup>(4)</sup> has established common rules for the implementation of a private storage aid scheme.
- (4) Pursuant to Article 6 of Regulation (EC) No 826/2008, aid fixed in advance is to be granted in accordance with the detailed rules and conditions provided for in Chapter III of that Regulation.
- (5) In accordance with Article 16(2)(c) of Regulation (EC) No 826/2008 and in order to ensure placing of homogeneous and manageable lots in storage it is appropriate to specify the requirements for a 'storage lot'.
- (6) For reasons of administrative efficiency and simplification, and since the required information concerning storage details is already included in the application for aid, it is appropriate to waive the request to supply the same information after the conclusion of the contract as provided for in point (a) of the first paragraph of Article 20 of Regulation (EC) No 826/2008.
- (7) For reasons of simplification and logistic efficiency, Member States should be allowed to waive the requirement to mark the contract number on each unit stored where the contracts number is entered in the stores register.
- (8) For reasons of administrative efficiency and simplification, taking into account the particular situation for skimmed milk powder storage, the checks provided for in Article 36(6) of Regulation (EC) No 826/2008 should be carried out in respect of at least one half of the contracts. Consequently, a derogation from that Article should be provided for.
- (9) In accordance with Article 4 of Regulation (EU) No 1370/2013 the aid for private storage fixed in advance should be based on storage costs and/or other relevant market elements. It is appropriate to set an aid for fixed storage costs for entry and exit of the products concerned and an aid per day of storage for costs for storage and financing.

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.

<sup>(2)</sup> OJ L 346, 20.12.2013, p. 12–19

<sup>(3)</sup> OJ L 347, 20.12.2013, p. 549

<sup>(4)</sup> Commission Regulation (EC) No 826/2008 of 20 August 2008 laying down common rules for the granting of private storage aid for certain agricultural products (OJ L 223, 21.8.2008, p. 3).

- (10) In accordance with Article 35(3) of Regulation (EC) No 826/2008 and in order to closely follow the use of the measure it is appropriate to specify the deadline for submitting the notifications provided for in Article 35(1)(a) of that Regulation.
- (11) In order to have an immediate impact on the market and to contribute to stabilise prices, the temporary measure provided for in this Regulation should enter into force on the day following that of its publication.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

1. This Regulation provides for private storage aid for skimmed milk powder as referred to in Article 17(g) of Regulation (EU) No 1308/2013.
2. Regulation (EC) No 826/2008 shall apply save as otherwise provided for in this Regulation.

#### *Article 2*

The unit of measurement referred to in Article 16(2)(c) of Regulation (EC) No 826/2008 is the 'storage lot' which corresponds to the quantity of the product covered by this Regulation, weighing at least 1 tonne and of homogeneous composition and quality, produced in a single factory, taken into storage in a single warehouse on a single day.

#### *Article 3*

1. Point (a) of the first paragraph of Article 20 of Regulation (EC) No 826/2008 shall not apply.
2. Member States may waive the requirements referred to in Article 22(1)(e) of Regulation (EC) No 826/2008 to mark the contract number provided that the store manager undertakes to enter the contract number in the register referred to in point V of Annex I to that Regulation.
3. By way of derogation from Article 36(6) of Regulation (EC) No 826/2008, at the end of the contractual storage period, the authority responsible for checking shall, in respect of at least one half of the number of contracts, by sampling, verify weight and identification of the skimmed milk powder in storage.

#### *Article 4*

1. The aid for the products referred in Article 1 shall be:
  - 8,86 EUR per tonne of storage for fixed storage costs,
  - 0,16 EUR per tonne per day of contractual storage.
2. Contractual storage shall end on the day preceding that of the removal from storage.
3. Aid may be granted only where the contractual storage period is between 90 and 210 days.

#### *Article 5*

Applications for private storage aid for may be lodged as from the date of entry into force of this Regulation. The last date for the submission of applications shall be 31 December 2014.

*Article 6*

Member States shall notify the Commission of the following:

- (a) by each Tuesday for the previous week, the quantities for which contracts have been concluded as well as the quantities of products for which applications to conclude contracts have been submitted, as required under Article 35(1)(a) of Regulation (EC) No 826/2008;
- (b) not later than the end of each month for the previous month, the information on the stocks required under Article 35(1)(b) of the Regulation No 826/2008.

*Article 7*

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, 4 September 2014.

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

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**COMMISSION DELEGATED REGULATION (EU) No 949/2014****of 4 September 2014****laying down temporary exceptional measures for the milk and milk product sector in the form of extending the public intervention period for butter and skimmed milk powder in 2014**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007<sup>(1)</sup>, and in particular Article 219(1) in conjunction with Article 228 thereof,

Whereas:

- (1) On 7 August 2014 the Russian government introduced a ban on imports of certain products from the Union to Russia, including milk and milk products. This ban has resulted in a threat of market disturbances with the potential for significant price falls due to the fact that an important export market has suddenly become unavailable.
- (2) Accordingly, a situation has arisen on the market in which the normal measures available under Regulation (EU) No 1308/2013 appear to be insufficient.
- (3) Article 12(d) of Regulation (EU) No 1308/2013 provides that public intervention for butter and skimmed milk powder shall be available from 1 March to 30 September.
- (4) In order to prevent a significant deterioration of the prices and market disturbances it is essential that public intervention is also available after 30 September 2014.
- (5) It is therefore appropriate to extend the intervention buying-in period for butter and skimmed milk powder to 31 December 2014.
- (6) In order to have an immediate impact on the market and to contribute to stabilise prices, the temporary measure provided for in this Regulation should enter into force on the day following that of its publication.

HAS ADOPTED THIS REGULATION:

*Article 1*

By way of derogation from Article 12(d) of Regulation (EU) No 1308/2013 the period during which public intervention for butter and skimmed milk powder is available in 2014 shall be extended to 31 December 2014.

*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, 4 September 2014.

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

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<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.

**COMMISSION DELEGATED REGULATION (EU) No 950/2014****of 4 September 2014****opening a temporary exceptional private storage aid scheme for certain cheeses and fixing in advance the amount of aid**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(1)</sup>, and in particular Article 219 (1) in conjunction with Article 228 thereof,

Whereas:

- (1) On 7 August 2014 the Russian government introduced a ban on imports of certain products from the Union to Russia, including dairy products. The most affected dairy product by the ban is cheese, given that exports to Russia represent 33 % of total Union cheese exports. Moreover, Russia is an exclusive trading partner for cheese for Finland and the Baltic countries and a significant destination for other Member States such as Germany, the Netherlands or Poland.
- (2) Exports of cheeses to Russia amounted in 2013 to more than 250 000 tonnes, a quantity that risks having to be absorbed by the internal market in an important share, thus resulting in market imbalance and downwards price pressure.
- (3) The market intervention measures available under Regulation (EU) No 1308/2013 do not appear to be sufficient for the situation recently created, since they are limited to cheeses with a geographical indication.
- (4) The threat of a serious imbalance in the cheese market might be mitigated or eliminated by storage. It is therefore appropriate to grant aid for private storage of cheese and to fix the amount of aid in advance.
- (5) Article 17 of Regulation (EU) No 1308/2013 provides for the granting of private storage aid for cheeses benefiting from a protected designation of origin or from a protected geographical indication under Regulation (EU) No 1151/2012 of the European Parliament and of the Council <sup>(2)</sup>. While cheeses with a geographical indication are affected by the import ban, they only represent a minimum share of the whole range of cheeses exported to Russia. For reasons of operational and administrative efficiency it is appropriate to set up a single private storage aid scheme covering all types of cheeses.
- (6) It is appropriate to exclude fresh cheeses which are not suitable for storage.
- (7) As a general rule, to facilitate management and control, private storage aid should be granted only to operators established and registered for VAT purposes in the Union.
- (8) To ensure that the arrangements can be monitored properly, the information needed to conclude the storage contract should be specified in this Regulation as well as the obligations of the contracting parties.
- (9) In order to make the scheme more effective, contracts should relate to a certain minimum quantity and to the obligations to be fulfilled by the contracting party, in particular those enabling the competent authority responsible for checking storage operations to make an effective inspection of the storage conditions.
- (10) Storage of the contractual quantity for the agreed period is one of the primary requirements for the granting of private storage aid. To take account of commercial practice and practical reasons, a margin of tolerance in respect of the quantity subject to aid should be allowed.
- (11) To ensure that the storage is properly managed, it is appropriate to adopt provisions for reducing the amount of aid to be paid when the quantity stored during the contractual storage period is less than the contractual quantity and where the storage period is not fully observed.

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.

<sup>(2)</sup> Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

- (12) The amount of aid should be fixed on the basis of storage costs and/or other relevant market elements. It is appropriate to set an aid for fixed storage costs for entry and exit of the products concerned and an aid per day of storage for costs for cold storage and financing.
- (13) It is necessary to indicate the conditions under which an advance payment may be granted, the adjustment of the aid in cases where the contractual quantity is not entirely respected, the checks on compliance with entitlement to aid, the possible penalties and the information to be notified to the Commission by the Member States.
- (14) It is appropriate to provide for the possibility to set a reduction coefficient for pending applications where that is necessary in order measures not to exceed the volumes for which the private storage aid scheme is set up.
- (15) Rules should also be laid down regarding documentation, accounting and frequency and nature of checks.

HAS ADOPTED THIS REGULATION:

#### *Article 1*

##### **Subject matter**

This Regulation provides for a temporary exceptional private storage aid scheme for cheeses falling under CN codes 0406 20, 0406 30, 0406 40 and 0406 90, and frozen curd falling under CN code 0406 10.

The maximum volume of product subject to this temporary scheme is set to 155 000 tonnes.

#### *Article 2*

##### **Definition**

For the purposes of this Regulation 'the competent authorities of the Member States' shall mean the departments or bodies accredited by the Member States as paying agencies which fulfil the conditions laid down in Article 7 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council <sup>(1)</sup>.

#### *Article 3*

##### **Eligibility of products**

1. In order to qualify for the private storage aid referred to in Article 1, hereinafter the 'aid', the cheese shall be of sound and fair marketable quality, of Union origin and have, on the day when the storage contract starts, a minimum age corresponding to the period of maturation that contributes to increasing the value of the cheese.
2. The cheese shall comply with the following requirements:
  - (a) each lot weighs at least 0,5 tonnes;
  - (b) it is indelibly marked with an indication, which may be encoded, of the undertaking in which it was manufactured and with the date of manufacture;
  - (c) it bears the date of entry into storage;
  - (d) it has not been the subject of a previous storage contract.
3. Member States may waive the obligation to indicate the date of entry into store referred to in point (c) of paragraph 2 on the cheese provided that the store manager undertakes to keep a register in which the particulars referred to in point (b) of paragraph 2 are entered on the date of entry into store.

#### *Article 4*

##### **Applications for aid**

1. An operator seeking aid shall lodge an application with the competent authorities of the Member States where the products are stored.
2. Operators applying for aid shall be established and registered for VAT purposes in the Union.

<sup>(1)</sup> Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

3. Applications for aid may be lodged as from the date of entry into force of this Regulation. The last date for the submission of applications shall be 31 December 2014.
4. Applications for aid shall relate to products which have been fully placed in storage.
5. Applications shall be lodged using the method made available to the operators by the Member State concerned.

The competent authorities of the Member States may require that electronic applications be accompanied by an advance electronic signature within the meaning of point 2 of Article 2 of Directive 1999/93/EC of the European Parliament and of the Council <sup>(1)</sup> or by an electronic signature offering equivalent assurances with regard to the functionalities attributed to a signature by applying the same rules and conditions as those defined in the Commission's provisions on electronic and digitised documents, set out in Commission Decision 2004/563/EC, Euratom <sup>(2)</sup>, and in its implementing rules.

6. Application shall only be admissible if the following conditions are met:
  - (a) it indicates a reference to this Regulation;
  - (b) it indicates the identification data of the applicants name, address and the VAT registration number;
  - (c) it indicates the product with its relevant 6-digit CN code;
  - (d) it indicates the quantity of products;
  - (e) it indicates the period of storage;
  - (f) it indicates the name and address of the storage place, the storage lot number and where appropriate the approval number identifying the factory;
  - (g) it does not include any additional conditions introduced by the applicant other than those laid down in this Regulation;
  - (h) it is presented in the official language, or one of the official languages of the Member State in which the application is lodged.
7. The content of the applications shall not be amended after their submission

#### Article 5

##### Conclusion of contracts

1. Contracts shall be concluded between the competent authority of the Member State on whose territory the products are stored and the applicant, hereafter referred to as the 'contracting party'.
2. Contracts shall be concluded within 30 days of the date of receipt of the information referred to in Article 4(6)(f) subject, where appropriate, to subsequent confirmation of the eligibility of the products as referred to in the second subparagraph of Article 14(2). If eligibility is not confirmed, the contract concerned shall be considered as null and void.

#### Article 6

##### Obligations of the contracting party

1. Contracts shall stipulate at least the following obligations for the contracting party:
  - (a) to place and to keep the contractual quantity in storage, during the contractual storage period, at his own risk and expense in conditions ensuring the maintenance of the characteristics of the products, without substituting the stored products or transferring them to another storage place. Where the contracting party submits a reasoned request, the competent authority may authorise a relocation of the stored products;
  - (b) to retain the weighting-in documents established at the time of entry into the storage place;
  - (c) to allow the competent authority to check at any time that all the obligations laid down in the contract are being observed;
  - (d) to make the products stored easily accessible and individually identifiable: each unit individually stored shall be marked so that date of placing in storage, the contract number, the product and the weight are shown. However, Member States may waive the requirement to mark the contract number provided that the store manager undertakes to enter the contract number in the register referred to in Article 3(2).

<sup>(1)</sup> Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (OJ L 13, 19.1.2000, p. 12).

<sup>(2)</sup> Commission Decision 2004/563/EC, Euratom of 7 July 2004 amending its Rules of Procedure (OJ L 251, 27.7.2004, p. 9).

2. The contracting party shall make available to the authority responsible for checking all documentation, for each contract, allowing in particular the following information on the products placed in private storage to be verified:
  - (a) the approval number identifying the factory and the Member State of production;
  - (b) the origin and the date of manufacture of the products;
  - (c) the date of placing into storage;
  - (d) the weight and the number of pieces packaged;
  - (e) the presence in the store and the address of the store;
  - (f) the expected date of the end of the contractual storage period and completed by the actual date of removal.
3. The contracting party or, where applicable the operator of the storage place, shall keep stock accounts available at the warehouse covering, by contract number:
  - (a) the identification of the products placed in private storage by lot;
  - (b) the dates of placing in and removal from storage;
  - (c) the quantity indicated per storage in lot;
  - (d) the location of the products in the store.

#### *Article 7*

#### **Contractual storage period**

1. The contractual storage period shall start on the day following that of receipt by the competent authorities of the information referred to in Article 4(6)(f).
2. Contractual storage shall end on the day preceding that of the removal from storage.
3. Aid may be granted only where the contractual storage period is between 60 and 210 days.

#### *Article 8*

#### **Removal from storage**

1. Removal from storage may start on the day following the last day of the contractual storage period.
2. Removal from store shall be in whole storage lots or, if the competent authority so authorises, in smaller quantities. However, in the case referred to in Article 14(4)(a), only a sealed quantity may be removed from store.
3. The contracting party shall notify the competent authority before it intends to begin removing products from storage, in accordance with the provisions laid down in Article 14(5).
4. Where the requirement in paragraph 3 is not complied with but the competent authority is satisfied that sufficient evidence has been furnished, within 30 days following removal from the storage place, of the date of removal from storage and the quantities concerned, the aid shall be reduced by 15 % and shall only be paid in respect of the period for which the contracting party supplies to the competent authority satisfactory proof that the product has been maintained in contractual storage.
5. Where the requirement in paragraph 3 is not complied with and the competent authority is not satisfied that sufficient evidence has been furnished, within 30 days following removal from the storage place, of the date of removal from storage and the quantities concerned, no aid shall be paid in respect of the contract concerned.

#### *Article 9*

#### **Aid amounts**

The aid shall be:

- 15,57 EUR per tonne of storage for fixed storage costs,
- 0,40 EUR per tonne per day of contractual storage.

*Article 10***Advance payment of aid**

1. After 60 days of storage, a single advance payment of the aid may be made, at the contracting party's request, provided that he lodges a security equal to the advance payment plus 10 %.
2. The advance payment shall not exceed the amount of aid corresponding to a storage period of 90 days or three months, where appropriate. The security referred to in paragraph 1 shall be released as soon as the balance of aid has been paid.

*Article 11***Payment of aid**

1. The aid, or, where an advance payment has been granted pursuant to Article 10, the balance of aid, shall be paid on the basis of an application for payment lodged by the contracting party within three months after the end of the contractual storage period.
2. Where the contracting party was unable to produce supporting documents within the time limit of three months despite acting promptly to obtain them on time, he may be given extensions, which may not exceed a total of three months.
3. Payment of the aid or of the balance of aid shall be carried out within 120 days following the day when an application for the payment of aid has been lodged provided that the obligations of the contract have been met and the final check has been carried out. However, if an administrative inquiry is under way, payment shall not be made until entitlement has been recognised.
4. Except in cases of *force majeure*, if the quantity actually stored during the contractual storage period is less than the contractual quantity and not less than 95 % of that quantity, the aid shall be paid for the quantity actually stored. However, if the competent authority finds that the contracting party acted deliberately or negligently, it may decide to further reduce or not to pay the aid.
5. Except in cases of *force majeure*, if the quantity actually stored during the contractual storage period is less than the percentages indicated in paragraph 4, but not less than 80 % of the contractual quantity, the aid for the quantity actually stored shall be reduced by half. However, if the competent authority finds that the contracting party acted deliberately or negligently, it may decide to further reduce or not to pay the aid.
6. Except in cases of *force majeure*, if the quantity actually stored during the contractual storage period is less than 80 % of the contracted quantity, no aid shall be paid.
7. If checks during storage or on removal reveal defective products, no aid shall be paid for those quantities. The remainder of the storage lot which is still eligible for aid shall be not less than the minimum quantity as laid down in Article 3(2). The same rule shall apply where part of a storage lot is removed for that reason before the minimum storage period.  
  
Defective products shall not be included in the calculation of the quantity actually stored referred to in paragraphs 4, 5 and 6.
8. Except in cases of *force majeure*, where the contracting party fails to respect the end of the contractual storage period, as laid down in Article 7(3), for the totality of the quantity stored, each calendar day of non-compliance shall entail a reduction of 10 % in the amount of aid for the contract in question. However, this reduction shall not exceed 100 % of the amount of the aid.

*Article 12***Notifications and monitoring**

1. Member States shall notify the Commission, by each Tuesday for the previous week, of the quantities for which contracts have been concluded, broken down by storage period, as well as of the quantities of products for which applications for aid have been submitted.

The Commission shall inform the Member States as soon as it determines that the quantities for which applications for aid have been submitted approach the maximum quantity referred to in Article 1.

When the Commission has informed the Member States that the quantities for which applications for aid have been submitted approach the maximum quantity referred to in Article 1, Member States shall notify the Commission each working day before 14.00 (Brussels time) of the quantities of products for which applications for aid have been submitted the preceding working day.

2. On the basis of the notifications received in accordance with paragraph 1, the Commission shall satisfy itself that the maximum quantity referred to in Article 1 is not exceeded.

Where the Commission determines, on the basis of those notifications, that the maximum quantity referred to in Article 1 has been exceeded, it shall immediately inform all Member States.

3. When the Commission has informed the Member States that the maximum quantity referred to in Article 1 has been exceeded, the Member States shall inform the operators accordingly.

4. Member States shall notify the Commission not later than the end of each month for the previous month:

(a) the quantities of products placed into and leaving storage during the month concerned;

(b) the quantities of products in storage at the end of the month concerned;

(c) the quantities of products in respect of which the contractual storage period has ended.

5. The notifications by the Member States referred to in paragraphs 1 and 4 shall be made in accordance with Commission Regulation (EC) No 792/2009 <sup>(1)</sup>.

#### Article 13

#### Measures for respecting the maximum quantity

Where acceptance of the full quantity of products for which applications for aid have been submitted on a certain day would lead to the maximum quantity referred to in Article 1 being exceeded, the Commission shall, by means of an implementing act adopted without applying the procedure referred to in Article 229(2) and (3) of Regulation (EU) No 1308/2013, set an allocation coefficient applicable to the quantities corresponding to the applications notified to the Commission on that day. That allocation coefficient shall limit the total quantity of products eligible for the temporary exceptional private storage aid to the maximum quantity referred to in Article 1.

#### Article 14

#### Checks

1. Member States shall take all necessary measures to ensure compliance with this Regulation. Those measures shall include full administrative checking of aid applications, which shall be supplemented by on-the-spot checks as specified in paragraphs 2 to 8.

2. The authority responsible for checking shall conduct checks on the products entering storage within 30 days from the date of receipt of the information referred to in Article 4(6)(f).

Without prejudice to point (a) of the first subparagraph of paragraph 5 of this Article in order to ensure that the products stored are eligible for aid, a representative sample of at least 5 % of the quantities placed in storage shall be physically checked to ensure that, as regards, inter alia, the weight, identification and nature of products, storage lots conform to the particulars in the application for concluding a contract.

3. Where the Member State can offer duly justified reasons, the 30-day limit laid down in paragraph 2 may be extended by 15 days.

4. The authority responsible for checking shall:

(a) seal the products by contract, storage lot or a smaller quantity at the time of the check provided for in paragraph 2;  
or

(b) make an unannounced check to ensure that the contractual quantity is present in the storage place.

<sup>(1)</sup> Commission Regulation (EC) No 792/2009 of 31 August 2009 laying down detailed rules for the Member States' notification to the Commission of information and documents in implementation of the common organisation of the markets, the direct payments' regime, the promotion of agricultural products and the regimes applicable to the outermost regions and the smaller Aegean islands (OJ L 228, 1.9.2009, p. 3).

The check referred to in point (b) of the first subparagraph shall correspond to at least 10 % of the total quantity under the contract and shall be representative. Such checks shall include an examination of the stock records as referred to in Article 6(3) and supporting documents, such as weigh tickets and delivery dockets, and a verification of weight, type of products and their identification relating to at least 5 % of the quantity subject to the unannounced check.

5. At the end of the contractual storage period, the authority responsible for checking shall, in respect of at least one half of the number of contracts, by sampling, verify weight and identification of the products in storage. For the purposes of this check, the contracting party shall inform the competent body, indicating the storage lots involved, at least five working days before:

- (a) the end of the maximum contractual storage period; or
- (b) the start of removal operations where the products is removed before the expiry of the maximum contractual storage period.

The Member States may accept a shorter time limit than five working days.

6. Where the option in paragraph 4(a) applies, the presence and integrity of the seals applied shall be verified at the end of the contractual storage period. Sealing and handling costs shall be borne by the contracting party.

7. Any samples taken for verification of the quality and composition of the products shall be taken by the officials of the authority responsible for checking or in their presence.

A physical check or verification of weight shall be conducted in the presence of those officials at the weighing procedure.

For the purposes of audit trail, all stock and financial records and documents checked by those officials shall be stamped or initialled during the control visit. Where computer records are verified, a copy shall be printed and retained on the inspection file.

#### Article 15

#### **Audit reporting**

1. The authority responsible for checking shall draw up a control report on each on-the-spot check. The report shall describe precisely the different items checked.

The report shall set out:

- (a) the date and time of commencement of the check;
- (b) details of advance notice given;
- (c) the duration of the check;
- (d) the responsible persons present;
- (e) the nature and extent of the checks carried out, providing, in particular, details of the documents and products examined;
- (f) the findings and conclusions;
- (g) whether any follow-up is required.

The report shall be signed by the official responsible and countersigned by the contracting party or, where applicable, by the operator of the warehouse and shall be included in the payment file.

2. In case of significant irregularities affecting at least 5 % of the quantities of products covered by a single contract subject to the check, the verification shall be extended to a larger sample to be determined by the authority responsible for the checking.

3. The authority responsible for checking shall record any case of non-compliance on the basis of the criteria of gravity, extent, duration and repetition that may result in exclusion in accordance with Article 16(1), and/or in the repayment of an unduly paid aid, including interests where applicable, in accordance with paragraph 4 of that Article.

*Article 16***Penalties**

1. Where the competent authority of a Member State finds that a document presented by an applicant for the attribution of the rights deriving from this Regulation provides incorrect information and where the incorrect information concerned is decisive for the attribution of that right, the competent authority shall exclude the applicant from the procedure of granting aid for the same product for which the incorrect information has been given for a period of one year from the moment when a final administrative decision establishing the irregularity has been taken.
2. The exclusion provided for in paragraph 1 shall not apply if the applicant proves, to the satisfaction of the competent authority, that the situation referred to in that paragraph is due to *force majeure* or obvious error.
3. Unduly paid aid shall be recovered, with interest from the operators concerned. The rules laid down in Article 73 of Commission Regulation (EC) No 796/2004 <sup>(1)</sup> shall apply *mutatis mutandis*.
4. Implementation of administrative penalties and recovery of unduly paid amounts, as provided for in this Article, are without prejudice to communication of irregularities to the Commission pursuant to Commission Regulation (EC) No 1848/2006 <sup>(2)</sup>.

*Article 17***Entry into force**

This Regulation shall enter into force on the third 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, 4 September 2014.

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

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<sup>(1)</sup> Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulations (EC) No 1782/2003 and (EC) No 73/2009, as well as for the implementation of cross compliance provided for in Council Regulation (EC) No 479/2008 (OJ L 141, 30.4.2004, p. 18).

<sup>(2)</sup> Commission Regulation (EC) No 1848/2006 of 14 December 2006 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organisation of an information system in this field and repealing Council Regulation (EEC) No 595/91 (OJ L 355, 15.12.2006, p. 56).

**COMMISSION IMPLEMENTING REGULATION (EU) No 951/2014****of 4 September 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) <sup>(1)</sup>,

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 <sup>(2)</sup>, 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, 4 September 2014.

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

*Director-General for Agriculture and Rural Development*

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

<sup>(2)</sup> OJ L 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 <sup>(1)</sup>	Standard import value
0702 00 00	MK	55,3
	ZZ	55,3
0707 00 05	TR	116,3
	ZZ	116,3
0709 93 10	TR	123,3
	ZZ	123,3
0805 50 10	AR	196,5
	CL	200,0
	TR	227,6
	UY	138,0
	ZA	175,4
	ZZ	187,5
0806 10 10	BR	166,0
	TR	118,7
	ZZ	142,4
0808 10 80	BR	63,5
	CL	100,3
	CN	120,7
	NZ	121,8
	US	146,8
	ZA	122,9
	ZZ	112,7
	ZZ	112,7
0808 30 90	CL	96,0
	CN	92,5
	TR	123,6
	XS	48,0
	ZA	52,7
	ZZ	82,6
0809 30	MK	73,4
	TR	128,9
	ZZ	101,2
0809 40 05	BA	34,7
	MK	41,9
	ZZ	38,3

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

**CORRIGENDA****Corrigendum to Commission Delegated Regulation (EU) No 528/2014 of 12 March 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for non-delta risk of options in the standardised market risk approach**

(Official Journal of the European Union L 148 of 20 May 2014)

On page 31, Article 3(1)(b)(i):

*for:* '... according to of Part Three, ...';

*read:* '... according to Part Three, ...';

on page 33, Article 7, second paragraph:

*for:* 'For the purposes of point (c), ...';

*read:* 'For the purposes of point (b), ...';

on page 35, Annex I:

*for:* 'Gamma impact =  $\wedge \times \text{Gamma} \times \text{VU}^2$ ,'

*read:* 'Gamma impact =  $\frac{1}{2} \times \text{Gamma} \times \text{VU}^2$ ,'

on page 35, Annex II, point (a):

*for:* '... relevant scenario determined in step (c) of Article 8.2.';

*read:* '... relevant scenario determined in step (c) of Article 9.';

on page 35, Annex II, point (b)(ii):

*for:* '... relevant scenario determined in step (c) of Article 8.2.';

*read:* '... relevant scenario determined in step (c) of Article 9.'.

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