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Legislation

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Contents

[1] Text with EEA relevance

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2015/785

of 20 April 2015

on the signing, on behalf of the European Union, and provisional application of the Agreement between the European Union and the United Arab Emirates on the short-stay visa waiver

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular point (a) of Article 77(2), in conjunction with Article 218(5), thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Regulation (EU) No 509/2014 of the European Parliament and the Council ([1]) transferred the reference to the United Arab Emirates from Annex I to Annex II of Council Regulation (EC) No 539/2001 ([2]).

(2) That reference to the United Arab Emirates is accompanied by a footnote indicating that the exemption from the visa requirement shall apply from the date of entry into force of an agreement on visa exemption to be concluded with the European Union.

(3) On 9 October 2014, the Council adopted a decision authorising the Commission to open negotiations with the United Arab Emirates for the conclusion of an agreement between the European Union and the United Arab Emirates on the short-stay visa waiver (the 'Agreement').

(4) Negotiations on the Agreement were opened on 5 November 2014 and were successfully finalised by the initialling thereof, by Exchange of Letters, on 20 November 2014.

(5) The Agreementshould be signed, and the declarations attached to the Agreement should be approved, on behalf of the Union. The Agreement should be applied on a provisional basis as from the date of its signature, pending the completion of the procedures for its formal conclusion.

(6) This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC ([3]); the United Kingdom is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.

(7) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC ([4]); Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application,

([1]) Regulation (EU) No 509/2014 of the European Parliament and of the Council of 15 May 2014 amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 149, 20.5.2014, p. 67).

([2]) Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 81, 21.3.2001, p. 1).

([3]) Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

([4]) Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union of the Agreement between the European Union and the United Arab Emirates on the short-stay visa waiver (the 'Agreement') is hereby authorised, subject to the conclusion of the said Agreement.

The text of the Agreement is attached to this Decision.

Article 2

The declarations attached to this Decision shall be approved on behalf of the Union.

Article 3

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

Article 4

The Agreement shall be applied on a provisional basis as from the date of signature thereof ([1]), pending the completion of the procedures for its conclusion.

Article 5

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

Done at Luxembourg, 20 April 2015.

For the Council
The President
J. DŪKLAVS

([1]) The date of signature of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

AGREEMENT

between the European Union and the United Arab Emirates on the short-stay visa waiver

THE EUROPEAN UNION, hereinafter referred to as 'the Union' or 'the EU', and

THE UNITED ARAB EMIRATES, hereinafter referred to as 'the UAE',

hereinafter referred to jointly as the 'Contracting Parties',

WITH A VIEW TO further developing friendly relations between the Contracting Parties and desiring to facilitate travel by ensuring visa-free entry and short stay for their citizens;

HAVING REGARD to Regulation (EU) No 509/2014 of the European Parliament and of the Council of 15 May 2014 amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement ([1]) by, *inter alia*, transferring 19 third countries, including the UAE, to the list of third countries whose nationals are exempt from the visa requirement for short stays in the Member States;

BEARING IN MIND that Article 1 of Regulation (EU) No 509/2014 states that for those 19 countries, the exemption from the visa requirement shall apply from the date of entry into force of an agreement on visa exemption to be concluded with the Union;

DESIRING to safeguard the principle of equal treatment of all EU citizens;

TAKING INTO ACCOUNT that persons travelling for the purpose of carrying out a paid activity during their short stay are not covered by this Agreement and therefore for that category the relevant rules of Union law and national law of the Member States and the national law of the UAE on the visa obligation or exemption and on the access to employment continue to apply;

TAKING INTO ACCOUNT the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice and the Protocol on the Schengen *acquis* integrated into the framework of the European Union, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, and confirming that the provisions of this Agreement do not apply to the United Kingdom and Ireland,

HAVE AGREED AS FOLLOWS:

Article 1

Purpose

This Agreement provides for visa-free travel for the citizens of the Union and for the citizens of the UAE when travelling to the territory of the other Contracting Party for a maximum period of 90 days in any 180-day period.

Article 2

Definitions

For the purpose of this Agreement:

(a) 'Member State' shall mean any Member State of the Union, with the exception of the United Kingdom and Ireland;

(b) 'a citizen of the Union' shall mean a national of a Member State as defined in point (a);

(c) 'a citizen of the UAE' shall mean a national of the UAE;

(d) 'Schengen area' shall mean the area without internal borders comprising the territories of the Member States as defined in point (a) applying the Schengen *acquis* in full.

([1]) OJ L 149, 20.5.2014, p. 67.

Article 3

Scope of application

1. The citizens of the Union holding a valid ordinary, diplomatic, service/official or special passport issued by a Member State may enter and stay without a visa in the territory of the UAE for the period of stay as defined in Article 4(1) of this Agreement.

The citizens of the UAE holding a valid ordinary, diplomatic, service/official or special passport issued by the UAE may enter and stay without a visa in the territory of the Member States for the period of stay as defined in Article 4(2) of this Agreement.

2. Paragraph 1 does not apply to persons travelling for the purpose of carrying out a paid activity.

For that category of persons, each Member State individually may decide to impose a visa requirement on the citizens of the UAE or to withdraw it in accordance with Article 4(3) of Council Regulation (EC) No 539/2001 ([1]).

For that category of persons, the UAE may decide on the visa requirement or the visa waiver for the citizens of each Member State individually in accordance with its national law.

3. The visa waiver provided for by this Agreement shall apply without prejudice to the laws of the Contracting Parties relating to the conditions of entry and short stay. The Member States and the UAE reserve the right to refuse entry into and short stay in their territories if one or more of these conditions is not met.

4. The visa waiver applies regardless of the mode of transport used to cross the border crossing points of the Contracting Parties.

5. Issues not covered by this Agreement shall be governed by Union law, the national law of the Member States and by the national law of the UAE.

Article 4

Duration of stay

1. Citizens of the Union may stay in the territory of the UAE for a maximum period of 90 days in any 180-day period.

2. Citizens of the UAE may stay in the territory of the Member States fully applying the Schengen *acquis* for a maximum period of 90 days in any 180-day period. That period shall be calculated independently of any stay in a Member State which does not yet apply the Schengen *acquis* in full.

The Citizens of the UAE may stay for a maximum period of 90 days in any 180-day period in the territory of each of the Member States that does not yet apply the Schengen *acquis* in full, independently of the period of stay calculated for the territory of the Member States fully applying the Schengen *acquis*.

3. This Agreement does not affect the possibility for the UAE and the Member States to extend the period of stay beyond 90 days in accordance with their respective national laws and Union law.

Article 5

Territorial application

1. As regards the French Republic, the provisions of this Agreement shall apply only to the European territory of the French Republic.

2. As regards the Kingdom of the Netherlands, the provisions of this Agreement shall apply only to the European territory of the Kingdom of the Netherlands.

([1]) Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 81, 21.3.2001, p. 1).

Article 6

Joint Committee for the management of the Agreement

1. The Contracting Parties shall set up a Joint Committee of experts (hereinafter referred to as the 'Committee'), composed of representatives of the Union and representatives of the UAE. The Union shall be represented by the European Commission.

2. The Committee shall have the following tasks:

(a) monitoring the implementation of this Agreement;

(b) suggesting amendments or additions to this Agreement;

(c) settling disputes arising from the interpretation or application of this Agreement;

(d) any other task agreed upon by the Contracting Parties.

3. The Committee shall be convened whenever necessary at the request of one of the Contracting Parties.

4. The Committee shall establish its rules of procedure.

Article 7

Relationship of this Agreement to existing bilateral visa waiver agreements between the Member States and the UAE

This Agreement shall take precedence over the provisions of any bilateral agreements or arrangements concluded between individual Member States and the UAE, in so far as they cover issues falling within the scope hereof.

Article 8

Final provisions

1. This Agreement shall be ratified or approved by the Contracting Parties in accordance with their respective internal procedures and shall enter into force on the first day of the second month following the date of the later of the two notifications by which the Contracting Parties notify each other that those procedures have been completed.

This Agreement shall be applied on a provisional basis as from the date of signature thereof.

2. This Agreement is concluded for an indefinite period, unless terminated in accordance with paragraph 5.

3. This Agreement may be amended by written agreement of the Contracting Parties. Amendments shall enter into force after the Contracting Parties have notified each other of the completion of their internal procedures necessary for this purpose.

4. Each Contracting Party may suspend in whole or in part this Agreement, in particular, for reasons of public policy, the protection of national security or the protection of public health, illegal immigration or upon the reintroduction of the visa obligation by either Contracting Party. The decision on suspension shall be notified to the other Contracting Party not later than two months before its planned entry into force. A Contracting Party that has suspended the application of this Agreement shall immediately inform the other Contracting Party should the reasons for that suspension cease to exist and shall lift that suspension.

5. Each Contracting Party may terminate this Agreement by giving written notice to the other Party. This Agreement shall cease to be in force 90 days thereafter.

6. The UAE may suspend or terminate this Agreement only in respect of all the Member States.

7. The Union may suspend or terminate this Agreement only in respect of all of its Member States.

Done in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Arabic languages, each text being equally authentic.

Съставено в Брюксел на шести май две хиляди и петнадесета година.
Hecho en Bruselas, el seis de mayo de dos mil quince.
V Bruselu dne šestého května dva tisíce patnáct.
Udfærdiget i Bruxelles den sjette maj to tusind og femten.
Geschehen zu Brüssel am sechsten Mai zweitausendfünfzehn.
Kahe tuhande viieteistkümnenda aasta maikuu kuuendal päeval Brüsselis.
Έγινε στις Βρυξέλλες, στις έξι Μαΐου δύο χιλιάδες δεκαπέντε.
Done at Brussels on the sixth day of May in the year two thousand and fifteen.
Fait à Bruxelles, le six mai deux mille quinze.
Sastavljeno u Bruxellesu šestog svibnja dvije tisuće petnaeste.
Fatto a Bruxelles, addì sei maggio duemilaquindici.
Briselē, divi tūkstoši piecpadsmitā gada sestajā maijā.
Priimta du tūkstančiai penkioliktų metų gegužės šeštą dieną Briuselyje.
Kelt Brüsszelben, a kétezer-tizenötödik év május havának hatodik napján.
Magħmul fi Brussell, fis-sitt jum ta' Mejju tas-sena elfejn u ħmistax.
Gedaan te Brussel, de zesde mei tweeduizend vijftien.
Sporządzono w Brukseli dnia szóstego maja roku dwa tysiące piętnastego.
Feito em Bruxelas, em seis de maio de dois mil e quinze.
Întocmit la Bruxelles la șase mai două mii cincisprezece.
V Bruseli šiesteho mája dvetisícpätnásť.
V Bruslju, dne šestega maja leta dva tisoč petnajst.
Tehty Brysselissä kuudentena päivänä toukokuuta vuonna kaksituhattaviisitoista.
Som skedde i Bryssel den sjätte maj tjugohundrafemton.

حررت في بروكسل في اليوم السادس من مايو في العام ألفين وخمسة عشر

За Европейския съюз
Por la Unión Europea
Za Evropskou unii
For Den Europæiske Union
Für die Europäische Union
Euroopa Liidu nimel
Για την Ευρωπαϊκή Ένωση
For the European Union
Pour l'Union européenne
Za Europsku uniju
Per l'Unione europea
Eiropas Savienības vārdā –
Europos Sąjungos vardu
Az Európai Unió részéről
Għall-Unjoni Ewropea
Voor de Europese Unie
W imieniu Unii Europejskiej
Pela União Europeia
Pentru Uniunea Europeană
Za Európsku úniu
Za Evropsko unijo
Euroopan unionin puolesta
För Europeiska unionen

عن الاتحاد الأوروبي

За Обединените арабски емирства
Por los Emiratos Árabes Unidos
Za Spojené arabeské emiráty
For De Forenede Arabiske Emirater
Für die Vereinigten Arabischen Emirate
Araabia Ühendemiraatide nimel
Για τα Ενωμένα Αραβικά Εμιράτα
For the United Arab Emirates
Pour les Émirats arabes unis
Za Ujedinjene Arapske Emirate
Per gli Emirati Arabi Uniti
Apvienoto Arābu Emirātu vārdā
Jungtinių Arabų Emyratų vardu
Az Egyesült Arab Emirségek részéről
Għall-Emirati Għarab Magħquda
Voor de Verenigde Arabische Emiraten
W imieniu Zjednoczonych Emiratów Arabskieh
Pelos Emirados Árabes Unidos
Pentru Emiratele Arabe Unite
Za Spojené arabské emiráty
Za Združene arabske emirate
Yhdistyneiden Arabiemiirikuntien puolesta
För Förenade Arabemiraten

عن دولة الإمارات العربية المتحدة

JOINT DECLARATION WITH REGARD TO ICELAND, NORWAY, SWITZERLAND AND LIECHTENSTEIN

The Contracting Parties take note of the close relationship between the European Union and Norway, Iceland, Switzerland and Liechtenstein, particularly by virtue of the Agreements of 18 May 1999 and 26 October 2004 concerning the association of those countries with the implementation, application and development of the Schengen *acquis*.

In such circumstances it is desirable that the authorities of Norway, Iceland, Switzerland and Liechtenstein, on the one hand, and the United Arab Emirates, on the other hand, conclude, without delay, bilateral agreements on the short-stay visa waiver in terms similar to those of this Agreement.

JOINT DECLARATION ON THE INTERPRETATION OF THE CATEGORY OF PERSONS TRAVELLING FOR THE PURPOSE OF CARRYING OUT A PAID ACTIVITY AS PROVIDED FOR IN ARTICLE 3(2) OF THIS AGREEMENT

Desiring to ensure a common interpretation, the Contracting Parties agree that, for the purposes of this Agreement, the category of persons carrying out a paid activity covers persons entering for the purpose of carrying out a gainful occupation or remunerated activity in the territory of the other Contracting Party as an employee or as a service provider.

This category should not cover:

— businesspersons, i.e. persons travelling for the purpose of business deliberation (without being employed in the country of the other Contracting Party),

— sportspersons or artists performing an activity on an ad-hoc basis,

— journalists sent by the media of their country of residence, and,

— intra-corporate trainees.

The implementation of this Declaration shall be monitored by the Joint Committee within its responsibility under Article 6 of this Agreement, which may propose modifications when, on the basis of the experiences of the Contracting Parties, it considers it necessary.

JOINT DECLARATION ON THE INTERPRETATION OF THE PERIOD OF 90 DAYS IN ANY 180-DAY PERIOD AS SET OUT IN ARTICLE 4 OF THIS AGREEMENT

The Contracting Parties understand that the maximum period of 90 days in any 180-day period as provided by Article 4 of this Agreement means either a continuous visit or several consecutive visits, the total duration of which does not exceed 90 days in any 180-day period.

The notion of 'any' implies the application of a moving 180-day reference period, looking backwards at each day of the stay into the last 180-day period, in order to verify if the 90 days in any 180-day period requirement continues to be fulfilled. *Inter alia*, it means that an absence for an uninterrupted period of 90 days allows for a new stay for up to 90 days.

JOINT DECLARATION ON INFORMING CITIZENS ABOUT THE VISA WAIVER AGREEMENT

Recognising the importance of transparency for the citizens of the European Union and the nationals of the United Arab Emirates, the Contracting Parties agree to ensure full dissemination of information about the content and consequences of the visa waiver agreement and related issues, such as the entry conditions.

REGULATIONS

COMMISSION REGULATION (EU) 2015/786

of 19 May 2015

defining acceptability criteria for detoxification processes applied to products intended for animal feed as provided for in Directive 2002/32/EC 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 (EC) No 183/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene ([1]), and in particular Article 10(3) thereof,

Having regard to Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed ([2]), and in particular the second indent of Article 8(2) thereof,

Whereas:

(1) Directive 2002/32/EC provides that the use of products intended for animal feed which contain levels of undesirable substances exceeding the maximum levels laid down in Annex I of that Directive is prohibited.

(2) Directive 2002/32/EC provides also that Member States are to ensure that measures are taken to guarantee the correct application of any acceptable detoxification process on products intended for animal feed and the conformity of those detoxified products with the provisions of Annex I of that Directive. In order to ensure a uniform assessment across the European Union of the acceptability of detoxification processes, it is appropriate that acceptability criteria for detoxification processes are established at Union level as a complement to the criteria provided for products intended for animal feed which have undergone such processes.

(3) The acceptability criteria for detoxification processes should ensure that the detoxified feed does not endanger animal and public health and the environment and that the characteristics of the feed are not adversely altered by the detoxification process. The compliance of a detoxification process with those criteria shall be scientifically assessed by the European Food Safety Authority (EFSA) on a request from the Commission.

(4) Detoxification of contaminated materials, according to the definition in Article 3(2)(p) of Regulation (EC) No 767/2009 of the European Parliament and of the Council ([3]), can be performed by a physical, chemical or (micro) biological detoxification process.

(5) It is necessary to exclude from the scope of this Regulation the simple detoxification processes through which the contamination by an undesirable substance is reduced or eliminated solely by the usual refining process, cleaning, sorting or mechanical removal of contaminants or certain parts of the contaminated feed as such processes are part of the usual production process.

(6) A functional group of additives which suppress or reduce the absorption of mycotoxins, promote their excretion or modify their mode of action and thereby mitigate possible adverse effects of mycotoxins on animal and public health has been added in the category of technological additives in the Annex I to Regulation (EC) No 1831/2003 of the European Parliament and of the Council ([4]). As these additives do not change the level of the undesirable substance in the feed, the feed is not detoxified by the use of these additives and consequently,

([1]) OJ L 35, 8.2.2005, p. 1.
([2]) OJ L 140, 30.5.2002, p. 10.
([3]) Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (OJ L 229, 1.9.2009, p. 1).
([4]) Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition (OJ L 268, 18.10.2003, p. 29).

the use of these additives does not fall in the scope of this Regulation. Furthermore, as such products are not intended to be used for non-compliant feed, they do not fall in the scope of this Regulation.

(7) In accordance with Article 10(3) of Regulation (EC) No 183/2005, the detoxification process should be performed in an establishment approved for that purpose. To ensure a correct and effective application of the detoxification process, the detoxification process should be accepted by the competent authority to be performed in the relevant establishment.

(8) It may occur that a very large quantity of feed is contaminated with a contaminant for which a decontamination process exists but which has not yet been assessed by EFSA. In order to avoid that such a large quantity of feed needs to be unnecessarily destroyed, it may be appropriate in such exceptional situations to request EFSA to provide an assessment of the detoxification process on short notice, e.g. 10 working days. In case of a favourable outcome of such an assessment, the competent authority may allow the detoxification of the identified contaminated feed within a defined period of time. A full risk assessment with favourable outcome of the detoxification process is needed to apply the detoxification process without a time limit.

(9) Currently detoxification of feed is applied. As after the date when this Regulation starts to apply only detoxification processes can be used which have undergone a scientific assessment by EFSA with favourable outcome and have been accepted by the competent authority, it is appropriate to provide for sufficient time before this Regulation starts to apply.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

1. This Regulation shall apply to a detoxification process through which an undesirable substance listed in Annex I of Directive 2002/32/EC is on purpose removed from non-compliant contaminated feed, hereinafter 'physical detoxification process', broken down or destroyed by a chemical substance into harmless compounds, hereinafter 'chemical detoxification process', or metabolised or destroyed or deactivated by a (micro)biological process into harmless compounds, hereinafter '(micro)biological detoxification process'.

2. This Regulation shall not apply to a simple detoxification process through which the contamination by an undesirable substance is reduced or eliminated by a usual refining process, cleaning, sorting or mechanical removal of contaminants or certain parts of the contaminated feed.

Article 2

Application of a detoxification process

A detoxification process shall only be applied if:

— the process is exclusively intended for the detoxification of feed in which the non-compliance as regards Directive 2002/32/EC does not result from an on purpose non-compliance to the requirements set out in articles 4 and 5 of Regulation (EC) No 183/2005,

— the European Food Safety Authority (EFSA) has performed, on request of the Commission, a scientific assessment of the detoxification process, and concluded that the detoxification process complies with the acceptability criteria, as set out in Articles 3, 4 and 5.

Article 3

Acceptability criteria for a physical detoxification process

1. A scientific assessment shall be performed by EFSA on a physical detoxification process assessing if the following criteria are met:

(a) the process is effective;

(b) the process does not adversely affect the characteristics and the nature of the feed; and

(c) a safe disposal of the removed part of the feed is guaranteed.

2. The information which the feed business operator shall provide to the Commission for the purpose of the assessment of such a process is listed in point 1 of the Annex.

Article 4

Acceptability criteria for a chemical detoxification process

1. A scientific assessment shall be performed by EFSA on a chemical detoxification process assessing if the following criteria are met:

(a) the process is performed with a fully characterised and acceptable chemical substance;

(b) the process is effective and irreversible;

(c) the process does not result in harmful residues of the chemical substance used in the detoxification process in the detoxified feed;

(d) the process does not result in reaction products of the contaminant that endanger animal and public health and the environment; and

(e) the process does not adversely affect the characteristics and the nature of the feed.

2. The information which the feed business operator shall provide to the Commission for the purpose of assessment of such a process is listed in point 2 of the Annex.

Article 5

Acceptability criteria for a (micro)biological detoxification process

1. A scientific assessment shall be performed by EFSA on a (micro)biological detoxification process assessing if the following criteria are met:

(a) the process is performed with a fully characterised and acceptable (micro)biological agent;

(b) the process is effective and irreversible;

(c) the process does not result in harmful residues of the (micro)biological agent used in the detoxification process in the detoxified feed;

(d) the process does not result in metabolites of the contaminant that endanger animal and public health and the environment; and

(e) the process does not adversely affect the characteristics and the nature of the feed.

2. The information which the feed business operator shall provide to the Commission for the purpose of assessment of such a process is listed in point 3 of the Annex.

Article 6

Establishments where the detoxification process is carried out

1. Feed business operators shall ensure that establishments under their control and covered by Regulation (EC) No 183/2005 are approved by a competent authority, as defined in Article 3(e) of Regulation (EC) No 183/2005, where such establishments carry out a detoxification process referred to in Article 1. The approval shall be carried out in accordance with Article 10(3) of Regulation (EC) No 183/2005.

2. The competent authority, referred to in point 1, may require that the feed business operator provides independent expert advice in order to decide on the acceptability of the application of the detoxification process in the relevant establishment, ensuring a correct and effective application of the detoxification process in the establishment.

3. The national list of approved establishments, as defined in Article 19(2) of Regulation (EC) No 183/2005, shall mention for the establishments, approved for carrying out a detoxification process, the accepted detoxification process. The Commission shall display the national links to those lists on the Commission's website, for information purposes.

Article 7

Emergency situations

In case of an urgent need to decontaminate a large amount of feed with a detoxification process not yet assessed by EFSA, the Commission may request to EFSA on request of a competent authority to provide within a short period of time for an assessment of the detoxification process to enable, in case of a favourable outcome, for a defined short period of time, the detoxification of specifically identified contaminated consignments. The use of this detoxification process on a wider scale for an undetermined period of time is only allowed after EFSA has performed a comprehensive scientific assessment with favourable outcome.

Article 8

Transitional measures

Feed business operators using before the entry in application of the Regulation a detoxification process which has been favourably assessed by the EFSA before the application of this Regulation or which have provided the necessary information as provided for in Annex to the Commission before 1 July 2016 but EFSA has not finalised the assessment at the time of application of this Regulation, are allowed to continue to apply the detoxification process awaiting the decision of the competent authority as regards the acceptability of the application of the detoxification process in the relevant establishment.

Article 9

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*.

It shall apply from 1 July 2017.

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

Done at Brussels, 19 May 2015.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

1. **Information to be provided for the purposes of the acceptance of a physical detoxification process, as referred to in Article 3(2)**

   The following elements shall be provided to the Commission per matrix (feed material, compound feed, any other product intended for animal feeding):

   (a) data on the efficiency of the physical detoxification process to remove the contamination from the batch of feed, so that the batch of feed complies with the requirements of Directive 2002/32/EC;

   (b) evidence that the physical detoxification process does not adversely affect the characteristics and the nature of the feed; and

   (c) guarantees for safe disposal of the removed part of the feed.

2. **Information to be provided for the purposes of the acceptance of a chemical detoxification process, as referred to in Article 4(2)**

   The following elements shall be provided to the Commission per matrix (feed material, compound feed, any other product intended for animal feeding):

   (a) evidence that the detoxification process is effective, in the sense that the detoxified feed complies with the requirements of Directive 2002/32/EC, and irreversible;

   (b) evidence that the detoxification process does not result in harmful residues of the chemical substance used for the detoxification (as parent compound or as reaction product) in the detoxified product;

   (c) detailed information on the chemical substance, the mode of action of the chemical substance as regards the detoxification process and the fate of the chemical substance;

   (d) evidence that the reaction products of the contaminant, formed after the performance of the detoxification process, do not endanger animal and public health and the environment;

   (e) evidence that the detoxification process does not adversely affect the characteristics and the nature of the feed to be detoxified.

3. **Information to be provided for the purposes of the acceptance of a (micro)biological detoxification process, as referred to in Article 5(2)**

   The following elements shall be provided to the Commission per matrix (feed material, compound feed, any other product intended for animal feeding):

   (a) evidence that the detoxification process is effective in the sense that the detoxified feed complies with the requirements of Directive 2002/32/EC, and irreversible;

   (b) evidence that the detoxification process does not result in harmful residues of the (micro)biological agent used for the detoxification (as parent compound or as metabolite) in the detoxified product;

   (c) evidence that the detoxification process does not result in surviving microorganisms with decreased susceptibility to the detoxification process;

   (d) detailed information on the mode of action of the (micro)biological agent as regards the detoxification process and the fate of the (micro)biological agent;

   (e) evidence that the metabolites of the contaminant, formed after the performance of the detoxification process, do not endanger animal and public health and the environment;

   (f) evidence that the detoxification process does not adversely affect the characteristics and the nature of the feed to be detoxified.

COMMISSION IMPLEMENTING REGULATION (EU) 2015/787

of 19 May 2015

imposing a provisional anti-dumping duty on imports of acesulfame potassium originating in the People's Republic of China as well as acesulfame potassium originating in the People's Republic of China contained in certain preparations and/or mixtures

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 [1], and in particular Article 7(4) thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 4 September 2014, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of acesulfame potassium originating in the People's Republic of China ('the country concerned' or 'the PRC') as well as acesulfame potassium originating in the People's Republic of China contained in certain preparations and/or mixtures. The Commission initiated the investigation on the basis of Article 5 of Council Regulation (EC) No 1225/2009 ('the basic Regulation') and published a Notice of Initiation in the *Official Journal of the European Union* [2] ('the Notice of Initiation').

(2) The Commission initiated the investigation following a complaint lodged on 22 July 2014 by Nutrinova Nutrition Specialties & Food Ingredients GmbH ('the complainant'), which is the sole producer of acesulfame potassium (or 'Ace-K') in the Union. The complainant thus represents the total Union production of Ace-K. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Interested parties

(3) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainant, the known exporting producers and the Chinese authorities, known importers and users, traders, as well as associations known to be concerned about the initiation of the investigation and invited them to participate.

(4) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.3. Analogue country producers

(5) In the Notice of Initiation, the Commission informed interested parties that based on the information in the complaint, the product concerned is only known to be produced in the Union and the PRC. Interested parties were given the opportunity to comment on this. No comments were submitted.

(6) Nevertheless, the Commission contacted all nine third countries, for which Eurostat statistics showed exports into the Union of products falling within the same CN codes as the product concerned. The Commission asked for their assistance in identifying Ace-K producers and/or producers' associations. None of the third countries contacted could identify producers of Ace-K. Therefore, no production other than in the Union and in the country concerned was identified.

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ C 297, 4.9.2014, p. 2.

1.4. **Sampling**

(7) In the Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

(a) *Sampling of importers*

(8) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

(9) In view of the low number of replies, the Commission decided that sampling was not necessary.

(b) *Sampling of exporting producers in the PRC*

(10) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the mission of the PRC to the Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(11) Four exporting producers in the country concerned provided the requested information and agreed to be included in the sample. One of these exporting producers did not have sales to the Union during the investigation period. Therefore, it could not be investigated and as a result, the number of cooperating companies was three. They accounted for all of the imports to the Union of the product concerned during the investigation period. In view of the low number of parties involved, the Commission decided that sampling was not necessary.

1.5. **Market economy treatment ('MET') claim forms**

(12) For the purposes of Article 2(7)(b) of the basic Regulation, the Commission sent MET claim forms to the three cooperating exporting producers in the country concerned. None of the three cooperating exporting producers submitted a MET claim.

1.6. **Replies to the questionnaire**

(13) The Commission sent questionnaires to the Union producer, the three cooperating exporting producers in the country concerned, and all unrelated importers and users which expressed an interest in the investigation.

(14) Questionnaire replies were received from the Union producer, the three cooperating exporting producers in the country concerned, three unrelated importers and one user.

1.7. **Verification visits**

(15) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producer

— Nutrinova Nutrition Specialties & Food Ingredients GmbH, Frankfurt, Germany;

Importers

— RFI Food Ingredients Handelsgesellschaft mbH, Düsseldorf, Germany,

— Brenntag Holding GmbH, Mülheim an der Ruhr, Germany,

— The Ingredient House Llc., Skillman, New Jersey, USA;

Users

— The Wrigley Company Limited, Plymouth, UK;

Exporting producers in the country concerned

— Anhui Jinhe Industrial Co., Ltd, Lai'an County, the PRC,

— Suzhou Hope Technology Co., Ltd, Zhangjiagang, the PRC,

— Anhui Vitasweet Food Ingredient Co., Ltd, Suzhou and Liyang, the PRC.

1.8. Investigation period and period considered

(16) The investigation of dumping and injury covered the period from 1 July 2013 to 30 June 2014 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from January 2011 to the end of the investigation period ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(17) The product concerned is acesulfame potassium (potassium salt of 6-methyl-1,2,3-oxathiazin-4(3H)-one 2,2-dioxide; CAS RN 55589-62-3) originating in the PRC as well as acesulfame potassium originating in the PRC contained in preparations and/or mixtures comprising also other sweeteners and/or water ('the product under investigation') currently falling within CN code(s) ex 2106 90 92, ex 2106 90 98, ex 2934 99 90 (TARIC code 2934 99 90 21), ex 3824 90 92, ex 3824 90 93 and ex 3824 90 96 ('the product concerned'). Acesulfame potassium is also commonly referred to as Acesulfame K or Ace-K.

(18) Ace-K is used as a synthetic sweetener in a wide range of applications, for example in food, beverage, and pharmaceutical products.

2.2. Like product

(19) Ace-K produced and sold in the Union by the Union industry was found to have the same basic physical and chemical characteristics as well as the same basic uses as Ace-K produced in the country concerned and sold for export to the Union. They are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Market economy treatment ('MET')

(20) Pursuant to Article 2(7)(b) of that Regulation the Commission determines normal value in accordance with Article 2(1) to (6) of the basic Regulation for the exporting producers in the PRC which comply with the criteria in Article 2(7)(c) of the basic Regulation and could therefore be granted MET.

(21) However, none of the cooperating exporting producers applied for MET as mentioned also in recital 12.

3.2. Normal value

(22) In accordance with Article 2(7)(a) of the basic Regulation, normal value had to be determined on the basis of the prices in an appropriate market economy third country (the 'analogue country'), or the price from such a third country to other countries, including the Union, or, where those are not possible, on any other reasonable basis, including the price actually paid or payable in the Union for the like product, duly adjusted if necessary to include a reasonable profit margin.

(23) In the absence of a third analogue country, as explained in recital 6, normal value was based on the prices actually paid or payable in the Union for the like product. The sales by the Union producer of those product types matching with those sold in the Union market by the Chinese cooperating producers during the

investigation period were identified. The sales of the Union producer to independent customers were found representative when expressed as a proportion of the total volume of exports of the product concerned as well as per product type. The sales of these product types by the Union producer were profitable. Their average Union sales price served as the normal value.

3.3. **Export price**

(24) The cooperating exporting producers exported to the Union directly to independent customers. Therefore, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

3.4. **Comparison**

(25) The Commission compared the normal value and the export price of the cooperating exporting producers on an ex-works basis.

(26) Where justified in order to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation.

(27) In particular, the Commission made an adjustment for differences in level of trade as it was established that the sole Union producer sold mainly to users while the Chinese producers sold mainly to traders. Secondly, based on several submissions an adjustment was made for the quality difference and the market perception of that difference between the Chinese Ace-K and the Union producer's Ace-K. In addition, the normal value was adjusted for certain exceptional research and development (R & D) as well as marketing expenses incurred by the Union producer during the investigation period. These expenses are discussed in further detail in recital 67.

3.5. **Dumping margins**

(28) For each of the cooperating exporting producers, the Commission compared the weighted average export price per product type with the weighted average normal value, in accordance with Article 2(11) and (12) of the basic Regulation.

(29) On this basis, the provisional weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Provisional dumping margin
Anhui Jinhe Industrial Co., Ltd	97,8 %
Suzhou Hope Technology Co., Ltd	89,1 %
Anhui Vitasweet Food Ingredient Co., Ltd	37,4 %

(30) For all other exporting producers in the country concerned, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as proportion of the total export volume — as reported in Eurostat import statistics — from the country concerned to the Union.

(31) The level of cooperation in this case is high since the exports of the cooperating exporting producers to the Union constituted the total exports to the Union during the investigation period. On this basis, the Commission decided to base the residual dumping margin at the level of the cooperating company with the highest dumping margin.

(32) The provisional residual dumping margin, expressed as a percentage of the CIF Union frontier price, duty unpaid, is therefore 97,8 %.

Company	Provisional dumping margin
Anhui Jinhe Industrial Co., Ltd	97,8 %
Suzhou Hope Technology Co., Ltd	89,1 %
Anhui Vitasweet Food Ingredient Co., Ltd	37,4 %
All other companies	97,8 %

4. **INJURY**

4.1. **Preliminary remark**

(33) The analysis concerns only one company. Thus, for reasons of confidentiality most indicators are given in indexed form or ranges.

4.2. **Definition of the Union industry and Union production**

(34) The like product was manufactured by one producer in the Union during the investigation period, which constitutes the Union industry within the meaning of Article 4(1) of the basic Regulation.

4.3. **Union consumption**

(35) The Commission established the Union consumption on the basis of the data provided by the Union industry, Chinese export statistics and the data of the Chinese exporting producers. Eurostat data was not suitable for this purpose because the product concerned is imported under several CN codes together with many other products. In the absence of Ace-K production in any third country, all imports into the Union were from the PRC.

(36) Union consumption developed as follows:

Table 1

Union consumption (in tonnes)

	2011	2012	2013	Investigation period
Total Union consumption Index	100	104	110	104

Source: Data provided by Union industry, cooperating Chinese producers and Chinese export statistics.

(37) The consumption of Ace-K in the Union has increased by around 4 % over the period considered, reportedly due to a rise in the demand of sugar-free products in the Union. In the last year of the period considered there was a decrease in consumption due to increased competition caused by other (new) sweeteners. However, this decrease seems to be of a temporary nature and there is no clear indication on the file that the demand for Ace-K will further decrease in the coming years.

4.4. **Imports from the PRC**

4.4.1. *Volume and market share of the imports from the PRC*

(38) The Commission established the volume of Chinese imports on the basis of the Chinese export statistics cross-checked with the data provided by the three exporting producers from the PRC accounting for the total volume of exports of the product concerned during the investigation period.

(39) Imports into the Union and market shares from the PRC developed as follows:

Table 2

Import volume (in tonnes) and market share

	2011	2012	2013	Investigation period
Volume of imports from the PRC	1 612	1 816	2 051	1 831
Market share of imports from the PRC — Index	100	108	115	110

Source: Data provided by cooperating Chinese producers and Chinese export statistics

(40) The level of imports from the PRC has increased by 14 % over the period considered. During the same period the market share of Chinese imports also increased, by 10 % to reach 65 % — 80 % during the investigation period.

4.4.2. *Prices of the imports from the PRC and price undercutting*

(41) The Commission established the prices of imports on the basis of data from the cooperating producers from the PRC. The weighted average CIF price in euro per kilo of imports into the Union from the PRC developed as follows:

Table 3

CIF import prices from the PRC (EUR/kg)

	2011	2012	2013	Investigation period
Weighted average import prices	5,71	5,11	4,30	3,99
Index	100	90	75	70

Source: Data provided by cooperating Chinese producers and Chinese export statistics.

(42) The average prices of imports from the PRC have consistently decreased during the period considered by 30 %.

(43) The Commission determined the price undercutting during the investigation period by comparing:

(a) the weighted average sales prices of the sole Union producer charged to unrelated customers on the Union market for the product types exported to the Union by the Chinese exporting producers, adjusted to an ex-works level; and

(b) the corresponding weighted average prices per product type of the imports from the cooperating exporting producers to the first independent customer on the Union market, established on a cost, insurance, freight (CIF) basis, with appropriate adjustments for customs duties (6,5 %) and post-importation costs.

(44) The weighted average Union industry's price was compared with the corresponding weighted average prices per product type of the imports from the cooperating exporting producers for transactions at the same level of trade, after deduction of rebates and discounts as well as after the adjustments to the Union industry price for quality difference and the market perception thereof and R & D and marketing expenses for the same reasons as those mentioned in recital 27 above. The result of the comparison was expressed as a percentage of the Union producers' turnover during the investigation period. The Commission found a weighted average undercutting margin of between 18 % and 45 % by the imports from the PRC on the Union market.

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

4.5.1. *General remarks*

(45) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered. For the injury determination, the Commission did not make a distinction between macroeconomic and microeconomic injury indicators since the sole Union producer constituted the Union industry within the meaning of Article 4(1) of the basic Regulation. The Commission evaluated the economic indicators on the basis of data related to the sole Union producer. The data were found to be representative of the economic situation of the Union industry.

(46) The economic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping, average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital. They are analysed as follows.

4.5.2. *Injury indicators*

4.5.2.1. Production, production capacity and capacity utilisation

(47) The total Union production, production capacity and capacity utilisation developed over the period considered as follows:

Table 4

Production, production capacity and capacity utilisation

	2011	2012	2013	Investigation period
Production volume — Index	100	81	70	69
Production capacity — Index	100	100	100	100
Capacity utilisation — Index	100	81	70	69

Source: Data provided by Union industry.

(48) The volume of production of the Union industry consistently decreased, by 31 %. In fact, during the period considered the Union producer increasingly performed shut-downs of the production facilities in order to cut costs. During the investigation period, the factory was, for that reason, shut down for a total of four months.

(49) The production capacity of the Union industry remained unchanged throughout the period considered, as many costs are fixed, independently of capacity. Consequently, the capacity utilisation decreased in line with the volume of production.

4.5.2.2. Sales volume and market share

(50) The Union industry's volume of sales in the Union to unrelated customers and its market share developed negatively over the period considered:

Table 5

Sales volume and market share

	2011	2012	2013	Investigation period
Sales volume on the Union market — Index	100	89	82	87
Market share — Index	100	86	74	84

Source: Data provided by Union industry.

(51) Over the period considered the volume of sales of the Union producer dropped overall by 13 %, even though consumption increased during that period. This adverse trend includes a period of slight volume recovery from 2013 to the investigation period which could only be achieved through contracts with sales prices which further undermined the viability of the Union industry.

(52) The market share of the Union industry also fell, by 16 %, over the period considered, both due to customers which shifted supplier and to customers with dual supply which increased the share of purchases from the PRC.

4.5.2.3. Growth

(53) It is clear that Union industry's growth was negative bearing in mind the abovementioned fall in market share and the increase in consumption mentioned at recital 37.

4.5.2.4. Employment

(54) Employment and productivity developed over the period considered as follows:

Table 6

Employment and Productivity

	2011	2012	2013	Investigation period
Number of employees — Index	100	103	82	82
Production in tonnes per employee — Index	100	87	100	106

Source: Data provided by Union industry.

(55) From 2011 to the end of the investigation period, the Union industry reduced its personnel by almost one fifth to cope with the decrease in production and in line with the temporary shut downs. Productivity increased slightly by 6 % over the same period as a consequence of the reduction in the number of employees.

4.5.2.5. Labour costs

(56) The average labour costs of the Union industry developed over the period considered as follows:

Table 7

Average labour costs per employee

	2011	2012	2013	Investigation period
Average labour costs per employee — Index	100	103	111	115

Source: Data provided by Union industry.

(57) The Union industry average labour costs per employee increased by 15 % over the period considered because severance payments became due as a result of the reduction in personnel (see recital 54). Also, reportedly new wage rates were applicable within the chemical sector.

4.5.2.6. Magnitude of the dumping margin and recovery from past dumping

(58) All dumping margins were significant (see recital 29 above). The impact of the magnitude of the actual margins of dumping on the Union industry was substantial, given the volume and prices of imports from the PRC.

(59) This is the first anti-dumping investigation regarding the product concerned. Therefore, no data were available to assess the effects of possible past dumping.

4.5.2.7. Prices and factors affecting prices

(60) The weighted average unit sales prices of the Union producer to unrelated customers in the Union developed as follows:

Table 8

Sales prices in the Union

	2011	2012	2013	Investigation period
Average sales price in the Union — Index	100	94	94	88
Unit cost of production — Index	100	106	117	119

Source: Data provided by Union industry.

(61) The Union industry's average selling price of the like product fell by 12 % in the period considered, partly following the strongly negative trend of the average import prices from the PRC (see recital 42).

(62) The Union industry average cost of production increased by 19 %. This was mainly caused by the increased impact of fixed costs on a reducing volume of production and sales and by an increase in the price of raw material.

4.5.2.8. Inventories

(63) Stock levels of the Union industry developed over the period considered as follows:

Table 9

Inventories

	2011	2012	2013	Investigation period
Closing stocks — Index	100	98	89	94
Closing stocks as a percentage of production — Index	100	121	126	135

Source: Data provided by Union industry.

(64) Although closing stocks fell in the period considered due to temporary shut downs of production facilities to cut costs (see recital 48), as a percentage of production stocks they increased.

4.5.2.9. Profitability, cash flow, investments, return on investments and ability to raise capital

(65) Profitability, cash flow, investments and return on investments of the Union producer developed over the period considered as follows:

Table 10

Profitability, cash flow, investments and return on investments

	2011	2012	2013	Investigation period
Profitability of sales in the Union to unrelated customers — Index	100	74	48	26
Cash flow — Index	100	85	75	78

	2011	2012	2013	Investigation period
Investments — Index	100	51	48	34
Return on investments — Index	100	68	44	25

Source: Data provided by Union industry.

(66) The Commission established the profitability of the Union industry by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. In calculating profitability, the Commission deducted from the reported costs all R & D and marketing costs which it considered to be of an exceptional nature, as also mentioned in recital 27 above. Without this deduction, the Union industry would have reached a loss-making situation in the investigation period. In line with the fall in profitability, net cash flow, investments and return on investments also decreased.

(67) The Union industry claimed that the deducted R & D and marketing costs were normal, ongoing costs related to the product concerned. However, the investigation concluded that these costs related to a new product, albeit a product falling within the product scope of this investigation. These exceptional and high costs would not occur in a normal or representative year for the Union industry. In addition, these costs concern the R & D and marketing of a product that was not sold in significant volumes on the Union market during the period considered.

(68) Even with the above mentioned exclusion of costs, the Union producer's profitability decreased sharply and consistently over the period considered. The Commission considered the level of profitability in the investigation period and the trend of profitability to be injurious because of the clear and substantial fall described above.

(69) The steep fall in profitability was mainly due to the allocation of steadily increasing fixed costs per tonne as compared to the reducing volume of production and sale. In addition, there was a clear fall in average prices, which led to the inability of the Union industry to sustain profit levels and as a result the profitability dropped dramatically. As shown in Table 10 above, the other performance indicators followed a similar trend to return on turnover.

(70) The net cash flow is the ability of the Union producers to self-finance their activities. Expressed as an index, the trend in net cash flow developed negatively over the period considered, decreasing by 22 % as a consequence of the profitability decrease.

(71) The Union industry's investments decreased even more significantly. The volume of investments during the investigation period was only around one third of the volume of investments in 2011. As for profitability, investments in the new product were not taken into account for this calculation.

(72) The return on investments expresses the profit in percentage of the net book value of investments. It fell strongly and consistently from 2011 to the investigation period, dropping around 75 %.

(73) Being part of a large international group the sole Union producer did not claim that its ability to raise capital had so far been affected by the above developments. However, the Union industry made clear during the procedure that the current situation was not sustainable.

4.5.3. *Conclusion on injury*

(74) Significant negative trends were observed in the following economic indicators: production, capacity utilisation, market share, employment, sales volume and sales prices on the Union market. Stocks (as percentage of production) increased although they decreased in absolute terms. The impact of consistently decreasing sales prices in combination with overall decreasing sales volumes have been substantial, leading to a considerable drop in market share, profitability, return on investment and cash flow.

(75) The fact that the Union market is dominated by large players in the food and beverage sector and that such business is conducted through annual contracts means that in this sector the Union industry is particularly sensitive to falls in sales volumes and prices even if these falls concern a small number of customers.

(76) Productivity on the other hand improved. However, the development was a consequence of a reduction in the number of employees due to the decrease in demand and, consequently, production, which made some of the workers redundant. Therefore, under these circumstances the increase in productivity cannot be considered a positive element.

(77) Union consumption has also increased. However the Union industry was not able to benefit from it due to the fall in both sales volume and sales prices mentioned above.

(78) An interested party questioned the existence of injury. This party argued that the situation of the Union industry during the investigation period was normal. It claimed that the Union industry had lost patent protection and subsequently its dominant market position. Therefore, it should now accept lower profits and lower sales volumes.

(79) This argument is unfounded. The main production patent expired in 2005 (two smaller patents expired before and after that date). Following the expiry of the production patent in 2005, and well before the period considered, new players entered the market, namely the Chinese exporting producers, and their presence has been gradually increasing since then. In 2009, well before the beginning of the period considered, the market share of the Union industry had dropped from its so far dominant position to below 50 %. By 2011, the beginning of the period considered, the market share of Chinese imports in the Union market already by far and large exceeded the Union industry's market share. Therefore, indeed the expiry of the patent protection in 2005 led to a market of more than one player.

(80) Further, the injurious situation has been analysed over the period considered, that is to say from 2011 to 2014 or as much as six years following the expiry of the production patent. The development of the majority of the injury indicators over that period (2011 — investigation period) was profoundly negative for the Union industry. More specifically, it had lost market share, decreased its sales prices, it experienced sharp declines in profitability and the rest of the financial indicators examined above, the productivity decreased, shut-downs became necessary in order to cut costs and no benefits were experienced from an increasing consumption as explained in recital 74 above. Such an economic situation cannot be simply explained by the possibility for new players to enter the market, which is the consequence of the expiry of the patent protection. In any event, this situation cannot be considered normal in the sense of a sustainable and healthy situation. First, the production patent expired well before the period considered and therefore there was sufficient time for the Union industry to react to the lack of protection. Second, even though the expiry of the patent protection could be marked with certain declines in performance, the levels of the injury indicators in the investigation period itself are considerably low for a sustainable and healthy industry. Moreover, despite this loss of patent protection the Union industry maintained a healthy economic and financial situation until 2011.

(81) On this basis the argument that the Union industry does not suffer injury must be rejected. The expiry of the patent protection, however, is further analysed as a factor contributing to the injury suffered by the Union industry.

(82) On the basis of the above, the Commission concluded at this stage that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

5. **CAUSATION**

(83) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the country concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from the country concerned was not attributed to the dumped imports. These factors are: (a) the performance of the Union industry on export markets, (b) the loss of patent protection and (c) the business strategy of the Union industry.

5.1. **Effects of the dumped imports**

(84) The Union industry's deteriorating situation over the period considered coincided with the increase in imports at dumped prices originating in the PRC. Over the period considered import volumes increased by 14 % and their prices fell by 30 %. This resulted in a 10 % increase in market share for the Chinese exporters. At the same time, the Union industry lost market share, its sales prices were driven downwards and sales volumes also developed negatively.

(85) In particular, the profound undercutting margins of between 18 and 45 % are further indicators that the dumped imports from the country concerned exercised significant price pressure on the prices of the Union industry.

(86) The fall in sales volumes reduced the Union industry's ability to absorb fixed costs. The low priced imports from the country concerned led to the inability of the Union industry to sustain profit levels and as a result the profitability dropped dramatically (see Table 10).

(87) The Union industry and other interested parties claimed that the two largest Chinese exporting producers were involved in a 'price war' over the period considered and that there was an attempt of a take-over. In fact, in early 2015, shortly after the investigation period, one of these cooperating exporting producers, Suzhou Hope Technology Co., Ltd, filed for bankruptcy protection under Chinese law. The consistent and continuous downwards development of prices of the two largest Chinese exporters led in reality to sales prices at unsustainable levels. These prices strongly undercut the Union industry's prices and managed to deteriorate the situation of the Union industry as well. That is to say in terms of production, capacity utilisation, market share, employment, sales volume and sales prices on the Union market.

(88) On the basis of the above, the Commission concluded that the Union industry's deteriorating state coincided with the substantial increase in imports at decreasing and dumped prices and that these imports had a determining role in the material injury suffered by the Union industry. Sales prices of the exporting producers decreased 30 % during the investigation period. By continuously lowering their unit sales price during the period considered, the producers from the country concerned were able to increase their market share. In view of the clearly established coincidence in time between, on the one hand, the level of dumped imports at continuously decreasing prices and, on the other hand, the Union industry's loss of sales volume and price depression, it is concluded that the dumped imports were responsible for the injurious situation of the Union industry.

5.2. **Effects of other factors**

5.2.1. *Export performance of the Union industry*

(89) The volume and average price of exports of the Union industry developed over the period considered as follows:

Table 11

Export performance of the Union industry

	2011	2012	2013	Investigation period
Export volume Index	100	87	75	72
Average price Index	100	112	108	98

Source: Data provided by Union industry.

(90) The export performance of the Union industry has been similar to its sales on the Union market in terms of volume although prices have been maintained at higher levels when expressed in euros. This difference in price development can partly be attributed to the exchange rate development between euro and US dollar in the period considered. The Commission therefore concludes that although the export performance has also been negative it does not explain the injury suffered by the Union industry on the Union market.

5.2.2. *Loss of Patent Protection*

(91) Some interested parties claimed that the injury suffered by the Union industry could be explained by a loss of patent protection on the Ace-K business by the sole Union producer. This argument is unfounded. As explained in recital 79 above, following in particular the expiry of the production patent in 2005, new players entered the market, namely the Chinese exporting producers, and their presence has been gradually increasing since then. In 2009, well before the beginning of the period considered, the market share of Union industry had dropped from

its dominant position granted by patent protection to below 50 %. By 2011, the beginning of the period considered, the market share of Chinese imports in the Union market by far and large exceeded the Union industry's market share. Therefore, indeed the expiry of the patent protection led to a market of more than one player.

(92) However, the investigation established the existence of material injury to the Union industry. Given the findings of injury, it is considered that the Union industry maintained a healthy economic and financial situation until 2011 and began deteriorating afterwards. That is to say as much as six years after the expiry of the production patent or after a sufficiently long period of time for the Union industry to react. Therefore, it is unsubstantiated that the Union industry's situation deteriorated because there were more players on the market. The situation of the Union industry rather deteriorated because of the pricing strategies those new players employed that led to the increased unsustainably low-priced import volume and substantial price undercutting.

(93) Therefore, the Commission concludes at this stage that the loss of patent protection did not contribute to the material injury suffered by the Union industry.

5.2.3. *Business Strategy*

5.2.3.1. Pricing strategy of the Union industry

(94) An interested party claimed that the injury suffered by the Union industry was explained by its decision to maintain its position on the Union market as a manufacturer of high quality products. On the contrary, the investigation concluded that this strategy had ensured its survival. To try to compete on price alone would have led to the closure of the Ace-K business because the dumped import prices had fallen to unsustainable levels. The unsustainable level of the import prices is further corroborated by the fact that the second largest exporting producer, for which Ace-K represents a dominant part of its total turnover, filed for bankruptcy protection under Chinese law in early 2015.

5.2.3.2. Significant R & D and marketing costs incurred by the Union industry

(95) It was claimed by an interested party that the injury suffered by the Union industry was explained by expenditure on a new product over the period considered. It should be noted that such expenditure related to the R & D and marketing of a new product containing Ace-K. However, as explained under recital 66, the costs of this innovation were not taken into account in the injury analysis and therefore the finding of material injury could not be affected by this expenditure.

(96) It is thus concluded that the business strategy adopted by the Union industry did not contribute to the material injury suffered by the Union industry.

5.3. **Conclusion on causation**

(97) The injury in this investigation is clear and wide ranging across most of the indicators as described above. The injury is clear in both its volume aspects (particularly market share, production, capacity utilisation, sales volume on the Union market and employment) and price aspects (average sales prices), as well as in performance indicators (profitability, return on investment, investment and cash flow). There was a clear coincidence in time between the increase in volume and market share of the low-priced dumped imports with the negative development in the economic situation of the Union industry. While the volume aspects are more pronounced, there is a clear correlation between steep deterioration of sales and production volumes and subsequent deterioration of financial indicators.

(98) The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports. The Commission has not identified any other factors which could have contributed to the injury.

(99) The Commission therefore concluded that the dumped imports have caused the material injury suffered by the Union industry and that there were no other factors that could break the causal link.

6. UNION INTEREST

(100) In accordance with Article 21 of the basic Regulation, the Commission examined whether it could conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers and users.

6.1. Interest of the Union industry

(101) The investigation established that the Union industry suffered material injury caused by the dumped imports from the PRC. Almost all injury indicators showed negative trends over the period considered, in particular production volume, sales volume, sales prices, employment, market share and profitability. A downward trend was also established for other indicators related to the financial performance, such as cash flow and return on investments.

(102) It is expected that following imposition of measures, import prices will increase and the Union industry will be partially relieved from the severe price pressure currently exerted by the dumped imports. In the absence of measures, the situation of the Union industry is very likely to further deteriorate. Further losses of sales volume and market share are very likely to endure, as the price pressure from the dumped imports will continue and the Union industry will be forced to lower its price levels even more. On the other hand, there are no grounds to establish that the price pressure would divert in absence of measures and would not follow the trends observed over the period considered. It is not excluded that, in the absence of measures, the Union industry will be forced to cease production of Ace-K altogether in the medium term, with the consequent loss of employment in the Union. This would also render the Union market completely dependent on imports from the PRC.

(103) The Commission therefore concluded at this stage that the imposition of anti-dumping duties would be in the interest of the Union industry.

6.2. Interest of unrelated importers

(104) Out of 25 contacted, only three importers submitted questionnaire replies. They represent around 13 % of total Ace-K imports from the PRC. These companies were subject to on-the-spot verifications.

(105) Imports of Ace-K from the PRC represent less than 10 % of the total turnover of these importers in the investigation period (for two of them, even less than 1 %).

(106) All three cooperating importers claimed that duties would have a negative impact on their activities as they would inevitably lead to higher prices. One importer emphasised the importance of dual sourcing for its customers.

(107) Another importer claimed that the Ace-K was not easily substituted for products containing it, which were already on the market. New products would be developed with alternative sweeteners rather than the product concerned.

(108) The Commission established that the importers could indeed be negatively affected by the measures but to a very limited extent. Ace-K is only a small part of the business for importers, which have quite a wide product portfolio. In addition, since measures would only restore fair competition on the Union market, it is considered that anti-dumping measures would not prevent importers from selling the product concerned in the Union.

(109) In the same line, since importers and end users alike have emphasised the need for two sources of supply, measures would most likely enhance the possibility of dual supply rather than preventing it. This is due to the fact that without measures the Union industry would be very likely driven out of the market.

(110) Therefore, from the information available, it is clear that the imposition of measures on importers would have a very limited impact, if at all, and such impact would be clearly outweighed by the benefits that the measures could bring to the Union industry.

6.3. **Interest of users**

(111) The Commission contacted around 80 users of Ace-K upon initiation. Only one user submitted a questionnaire reply. The main users form part of the sugar-free or sugar reduced segment of the food and beverage sector. Other sales of Ace-K are consumed in the pharmaceutical sector to make medicines more palatable.

(112) For the cooperating user, although Ace-K is used in most of its products, the Ace-K purchases are very small compared to overall production and sales costs.

(113) The cooperating user claimed that the product concerned is a key component for a considerable part of its finished products and extremely difficult to be substituted without negatively impacting its quality standards and competitiveness.

(114) Three other users, representing both large multinational food and beverage producers and smaller specialised pharmaceutical companies, did not complete the questionnaire but provided their comments in written submissions. They claimed that, subject to the determination of dumping, the Union industry should be maintained as a viable competitor and a reliable source of high quality supply.

(115) The investigation found that, in terms of costs, the importance of Ace-K in finished products is minimal. However, as claimed by the cooperating user, the use of Ace-K is essential for products which are already in the market. New products might be developed with alternative sweeteners but to change the formulation of established products would be risky and costly. Therefore, the access of users to alternative sources of Ace-K is very important.

(116) This argument was also put forward by the three users which submitted comments. They underlined that they did not wish to depend exclusively on Chinese Ace-K with a risk of monopolistic prices due to the possibility of concentration of the sector in the PRC.

(117) As mentioned in recital 108 above, the anti-dumping measures proposed aim at restoring a level playing field which should allow both Union and Chinese producers to remain in the market as viable competitors. The users' need for dual supply would then be better addressed with the imposition of measures than without them.

6.4. **Conclusion on Union interest**

(118) The imposition of anti-dumping measures can be expected to enable the Union industry to stay in the market and following that to improve its situation. There is a high risk that should measures not be imposed, the Union industry would have to consider withdrawing from the Ace-K business in the medium term, resulting in inevitable job losses. This would create a monopoly for the Chinese exporting producers, whose number is also likely to decrease. While having a possible minor impact on importers, this would be detrimental to the end users of Ace-K, some of which have underlined the importance of maintaining a source of supply in the Union.

(119) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to impose measures on imports of Ace-K originating in the PRC at this stage of the investigation.

7. **PROVISIONAL ANTI-DUMPING MEASURES**

(120) On the basis of the conclusions reached by the Commission on dumping, injury, causation and Union interest, provisional measures should be imposed to prevent further injury being caused to the Union industry by the dumped imports.

7.1. **Injury elimination level (injury margin)**

(121) To determine the level of the measures, the Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry. The measures should be established at a level sufficient to restore a situation of fair competition between the Union industry and the exporting producers in the PRC.

(122) Injury would be eliminated if the Union industry was able to cover its costs of production and to obtain a profit before tax on sales of the like product in the Union market that could be reasonably achieved under normal conditions of competition by an industry of this type in the sector, namely in the absence of dumped imports.

(123) To that end, the Union industry's price established for the price undercutting calculation in recitals 43 and 44 was considered to be a non-injurious price and used in the calculations of the injury margins. The particular circumstances of the present case revealed that as the due exclusion of non-recurring and exceptional R & D and marketing expenses led to an actual profit in the sales of the like product during the investigation period, the injury elimination level should be attained by such an actual price.

(124) Therefore, the Commission determined the injury elimination level on the basis of a comparison of the weighted average import CIF price of the cooperating exporting producers in the country concerned, as established for the price undercutting calculations, with the adjusted weighted average ex works price of the like product sold by the Union industry on the Union market during the investigation period, also as established for the price undercutting calculations. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.

7.2. **Provisional measures**

(125) Provisional anti-dumping measures should be imposed on imports of acesulfame potassium originating in the PRC as well as acesulfame potassium originating in the PRC contained in certain preparations and/or mixtures in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins. The amount of the duties should be set at the level of the lower of the dumping and the injury margins.

(126) On the basis of the above, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Company	Dumping margin	Injury margin	Provisional anti-dumping duty
Anhui Jinhe Industrial Co., Ltd	97,8 %	87,7 %	87,7 %
Suzhou Hope Technology Co., Ltd	89,1 %	76,6 %	76,6 %
Anhui Vitasweet Food Ingredient Co., Ltd	37,4 %	23,1 %	23,1 %
All other companies	97,8 %	87,7 %	87,7 %

(127) However, as the anti-dumping duty should also apply to any preparations and/or mixtures that include Ace-K it is more appropriate for the implementation of the duty by the customs authorities of the Union, to express the duty as a fixed amount in euro per kg net and apply this to the pure Ace-K imported, or the proportion of Ace-K in the prepared and/or mixed product.

(128) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflected the situation found during this investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are exclusively applicable to imports of the product concerned originating in the country concerned and produced by the named legal entities. Imports of product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.

(129) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ([1]). The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice informing about the change of name will be published in the *Official Journal of the European Union*.

([1]) European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170/Wetstraat 170, 1040 Brussels, Belgium.

(130) To minimise the risks of circumvention due to the high difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Annex I. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

(131) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but also to the producers which did not have exports to the Union during the investigation period.

8. **FINAL PROVISIONS**

(132) In the interests of sound administration, interested parties may submit written comments and/or request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.

(133) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is imposed on imports of acesulfame potassium (potassium salt of 6-methyl-1,2,3-oxathiazin-4(3H)-one 2,2-dioxide; CAS RN 55589-62-3) originating in the People's Republic of China as well as acesulfame potassium originating in the People's Republic of China contained in certain preparations and/or mixtures, currently falling within CN codes ex 2106 90 92, ex 2106 90 98, ex 2934 99 90 (TARIC code 2934 99 90 21), ex 3824 90 92, ex 3824 90 93 and ex 3824 90 96.

2. The rates of the provisional anti-dumping duty applicable to the product described in paragraph 1 and produced by the companies listed below shall be as follows:

Company	Provisional duty rate — euro per kg net	TARIC additional code
Anhui Jinhe Industrial Co., Ltd	3,19	C046
Suzhou Hope Technology Co., Ltd	3,15	C047
Anhui Vitasweet Food Ingredient Co., Ltd	1,23	C048
All other companies	3,19	C999
All companies declaring preparations and/or mixtures not containing acesulfame potassium originating in the People's Republic of China	0	C045

3. The anti-dumping duty on acesulfame potassium contained in preparations and/or mixtures shall be applicable in proportion in the preparations and/or mixture, by weight, of the total content of acesulfame potassium.

4. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, which shall conform to the requirements set out in Annex I. If no such invoice is presented, the duty applicable to all other companies shall apply.

5. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security deposit equivalent to the amount of the provisional duty.

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

Article 2

Upon presentation of the customs declaration for release into free circulation to the Member State's customs authority, in cases where the acesulfame potassium originates in a country other than the country of origin of the preparations and/or mixtures in which it is contained, the importer shall submit a declaration of origin issued by the final producer of the preparations and/or mixtures in conformity with the requirements in Annex II.

Article 3

1. Within 25 calendar days of the date of entry into force of this Regulation, interested parties may:

(a) Request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted;

(b) Submit their written comments to the Commission; and

(c) Request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

2. Within 25 calendar days of the date of entry into force of this Regulation, the parties referred to in Article 21(4) of Regulation (EC) No 1225/2009 may comment on the application of the provisional measures.

Article 4

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

Article 1 shall apply for a period of six months.

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

Done at Brussels, 19 May 2015.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

The valid commercial invoice referred to in Article 1(4) must be issued showing the following:

(1) The name and function of the official of the entity issuing the commercial invoice.

(2) The following declaration: 'I, the undersigned, certify that the acesulfame potassium (Ace-K) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the People's Republic of China. I declare that the information provided in this invoice is complete and correct.'

(3) Date and signature of the official of the entity issuing the commercial invoice.

ANNEX II

Declaration of Origin

Seller: [insert full name and address of the seller of the preparations and/or mixtures containing acesulfame potassium]

Number and date of commercial invoice:

Packing No	Product description of the preparation and/or mixture containing acesulfame potassium	Quantity in kg of the acesulfame potassium contained in the product	Country of origin of the acesulfame potassium
(1)	(2)	(3)	(4)

Producer: [insert full name and address of the final producer of the preparations and/or mixtures containing acesulfame potassium if the producer is not identical to the seller]

The producer of these goods hereby declares:

— that the origin declared in column 4 for the goods described in column 2 of this declaration has been determined by it in accordance with the provisions of Articles 23 and 24 of Council Regulation (EEC) No 2913/92 ([1]),

— its willingness to cooperate fully with the Commission of the European Union, or the customs authorities of the importing Member State when verifying the accuracy of this declaration.

Date		(Signature)
	(Stamp of the signing producer company)	(Name and function of the authorised signatory)

([1]) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

COMMISSION IMPLEMENTING REGULATION (EU) 2015/788

of 20 May 2015

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 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 [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, 20 May 2015.

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

[1] OJ L 347, 20.12.2013, p. 671.
[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	AL	74,3
	MA	110,0
	MK	101,3
	ZZ	95,2
0707 00 05	AL	41,5
	MK	57,0
	TR	111,1
	ZZ	69,9
0709 93 10	TR	128,9
	ZZ	128,9
0805 10 20	EG	52,4
	IL	70,8
	MA	56,3
	ZZ	59,8
0805 50 10	BO	147,7
	BR	107,1
	MA	111,5
	TR	101,5
	ZZ	117,0
0808 10 80	AR	91,3
	BR	100,8
	CL	138,3
	NZ	126,3
	US	189,0
	UY	86,8
	ZA	108,5
	ZZ	120,1

(1) Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2015/789

of 18 May 2015

as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.)

(notified under document C(2015) 3415)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ([1]), and in particular the fourth sentence of Article 16(3) thereof,

Whereas:

(1) In view of the audits carried out by the Commission and notifications of new outbreaks by the Italian authorities the measures provided for in Commission Implementing Decision 2014/87/EU ([2]) should be strengthened.

(2) The European Food Safety Authority (hereinafter 'the Authority') published on 6 January 2015 a Scientific Opinion on the risk to plant health posed by *Xylella fastidiosa* (Wells et al.) (hereinafter 'the specified organism') in the EU territory, with the identification and evaluation of risk reduction options ([3]). That Opinion identified a list of plant species susceptible to the European and non-European isolates of the specified organism. In addition, on 20 March 2015, the Authority published a scientific report on the categorisation of those plants for planting, excluding seeds, according to the risk of introduction of the specified organism. The report categorises the plant species which have been so far confirmed to be susceptible to the European and non-European isolates of the specified organism by natural infection, experimental infection via vector transmission, or unknown type of infection (hereinafter 'specified plants'). That list is longer than the list set out in Commission Implementing Decision 2014/497/EU ([4]). Therefore, it is appropriate that this Decision applies to a longer list of species than Implementing Decision 2014/497/EU. However, in order to ensure proportionality some measures should only apply to plant species susceptible to the European isolates of the specified organism (hereinafter 'host plants'). In this regard, while the EFSA Opinion of 6 January 2015 points to the uncertainty as regards the range of plant species since research is still ongoing, the results of the investigations carried out by the Italian authorities have confirmed the capacity of certain specified plants to be 'host plants'.

(3) Member States should carry out annual surveys for the presence of the specified organism in their territories and should ensure that professional operators are informed about its potential presence and the measures to be taken.

(4) In order to eradicate the specified organism and prevent its further spread in the rest of the Union, Member States should establish demarcated areas consisting of an infected zone and a buffer zone, and apply eradication measures. In view of the current situation in the South of Italy, the infected zone of the demarcated area established by the Italian authorities should, at least, cover the entire province of Lecce. In order to minimise the risk of the specified organism spreading outside the demarcated area (infected zone), the buffer zone should be 10 km wide.

([1]) OJ L 169, 10.7.2000, p. 1.
([2]) Commission Implementing Decision 2014/87/EU of 13 February 2014 as regards measures to prevent the spread within the Union of *Xylella fastidiosa* (Well and Raju) (OJ L 45, 15.2.2014, p. 29).
([3]) EFSA PLH Panel (EFSA Panel on Plant Health), 2015. Scientific Opinion on the risks to plant health posed by *Xylella fastidiosa* in the EU territory, with the identification and evaluation of risk reduction options. *EFSA Journal* 2015;13(1):3989, 262 pp.
([4]) Commission Implementing Decision 2014/497/EU of 23 July 2014 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Well and Raju) (OJ L 219, 25.7.2014, p. 56).

(5) In cases of isolated occurrences of the specified organism the establishment of a demarcated area should not be required if the specified organism can be eliminated from the plants where it was found to be present. In such cases, immediate action should be taken to ascertain whether other plants have been infected.

(6) Taking into account the epidemiology of the specified organism, and the risk of further spreading in the rest of the Union, the planting in the infected zone of the host plants should be prohibited, except in sites which are physically protected against the introduction of the specified organism by its vectors. This is important also to prevent infection of the host plants by the specified organism within the demarcated area.

(7) In the province of Lecce, the specified organism is already widely established. Where evidence shows that in certain parts of that area the specified organism has been present for more than 2 years and it is no longer possible to eradicate it, the responsible official body should have the possibility to apply containment measures, instead of eradication measures, to protect at least production sites, plants with particular cultural, social or scientific value, as well as the border with the rest of the Union territory. The containment measures should aim to minimise the amount of bacterial inoculum in that area and keep the vector population at the lowest level possible.

(8) In order to ensure effective protection of the rest of the Union territory from the specified organism, taking into account the possible spread of the specified organism by natural and human assisted means other than the movement of the specified plants for planting, it is appropriate to establish a surveillance zone immediately outside the buffer zone surrounding the infected zone of the province of Lecce.

(9) Plants known to be susceptible to the specified organism which have been grown for at least part of their life in a demarcated area or which have been moved through such an area are more likely to have been infected with the specified organism. Movement of those plants should therefore be subject to specific requirements aimed at preventing the further spread of the specified organism. To facilitate the early detection of the potential presence of the specified organism outside the demarcated area, traceability requirements should be set for movement of plants known to be susceptible to the specified organism outside the demarcated areas.

(10) In order to allow a follow up inspection at destination of plants for planting moved out of the demarcated areas, the responsible official body of the place of origin and the responsible official body of the place of destination should be immediately informed by the professional operators of the movement of each lot of the specified plants which have been grown at least part of their lives in a demarcated area.

(11) In order to ensure close monitoring of the movement of plants for planting originating in the demarcated areas and to provide an effective overview of the sites where the phytosanitary risk due to the specified organism is high, the Commission and the Member States should have access to information concerning the production sites located in the demarcated areas. Therefore, Member States should establish and update a list of all sites located in the demarcated areas in their territory in which specified plants have been grown and communicate that list to the Commission and the other Member States. The Commission should make available a compilation of those lists to the Member States.

(12) Official checks should be carried out in order to ensure that specified plants are only moved out of the demarcated areas in accordance with the requirements set out in this Decision.

(13) Taking into account the nature of the specified organism, specified plants originating in a third country where the specified organism is not present should, when introduced into the Union, be accompanied by a phytosanitary certificate including an additional declaration stating that that country is free from the specified organism.

(14) In order to ensure that specified plants introduced into the Union from third countries, where the specified organism is known to be present, are free from the specified organism, the requirements for their introduction into the Union should be similar to those set out for movement of specified plants originating in demarcated areas.

(15) Since October 2014, numerous plants for planting, other than seeds, of *Coffea*, originating in Costa Rica or in Honduras, have been intercepted in the Union with the presence of the specified organism. It is therefore concluded that the phytosanitary certification procedures of Costa Rica or Honduras are insufficient to ensure that consignments of plants of *Coffea* are free from the specified organism. Consequently, given the high probability of establishment of the specified organism in the Union, the absence of any effective treatment once the specified plants are infected, as well as the major economic consequences for the Union, the introduction into the Union of plants for planting of *Coffea*, other than seeds, originating in Costa Rica or Honduras should be prohibited.

(16) Implementing Decision 2014/497/EU should be repealed.

(17) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

Definitions

For the purposes of this Decision, the following definitions shall apply:

(a) 'specified organism' means European and non-European isolates of *Xylella fastidiosa* (Wells et al.);

(b) 'specified plants' means all plants for planting, other than seeds, belonging to the genera or species listed in Annex I;

(c) 'host plants' means all specified plants belonging to the genera or species listed in Annex II;

(d) 'professional operator' means any person involved professionally in one or more of the following activities concerning plants:

(i) planting;

(ii) breeding;

(iii) production, including growing, multiplying and maintaining;

(iv) introduction into, and movement within, and out of the Union territory;

(v) making available on the market.

Article 2

Detection or suspected presence of the specified organism

1. Any person who suspects or becomes aware of the presence of the specified organism shall immediately inform the responsible official body and provide it with all relevant information concerning the presence, or suspected presence, of the specified organism.

2. The responsible official body shall immediately record such information.

3. Where the responsible official body has been informed of a presence, or suspected presence, of the specified organism it shall take all necessary measures to confirm that presence, or the suspected presence.

4. Member States shall ensure that any person having under its control plants which may be infected with the specified organism is immediately informed of the presence or the suspected presence of the specified organism, of the possible consequences and risks and of the measures to be taken.

Article 3

Surveys of the specified organism in the territories of the Member States

Member States shall conduct annual surveys for the presence of the specified organism in their territory on the specified plants.

Those surveys shall be carried out by the responsible official body, or under official supervision of the responsible official body. They shall consist of visual examinations and, in the case of any suspicion of infection by the specified organism, collection of samples and testing. Those surveys shall be based on sound scientific and technical principles and shall be carried out at appropriate times of the year with regard to the possibility to detect the specified organism. Those surveys shall take account of the available scientific and technical evidence, the biology of the specified organism and its vectors, the presence and biology of specified plants, and any other appropriate information, concerning the presence of the specified organism.

Article 4

Establishment of demarcated areas

1. Where the presence of the specified organism is confirmed, the Member State concerned shall without delay demarcate an area in accordance with paragraph 2, hereinafter 'demarcated area'.

2. The demarcated area shall consist of an infected zone and a buffer zone.

The infected zone shall include all plants known to be infected by the specified organism, all plants showing symptoms indicating possible infection by that organism, and all other plants liable to be infected by that organism due to their close proximity to infected plants, or common source of production, if known, with infected plants, or plants grown from them.

As regards the presence of the specified organism in the province of Lecce, the infected zone shall at least include that entire province.

The buffer zone shall be of a width of at least 10 km, surrounding the infected zone.

The exact delimitation of the zones shall be based on sound scientific principles, the biology of the specified organism and its vectors, the level of infection, the presence of the vectors, and the distribution of specified plants in the area concerned.

3. If the presence of the specified organism is confirmed in the buffer zone, the delimitation of the infected zone and buffer zone shall immediately be reviewed and changed accordingly.

4. On the basis of the notifications by Member States in accordance with Commission Implementing Decision 2014/917/EU ([1]), the Commission shall establish and update a list of the demarcated areas and communicate that list to the Member States.

5. Where based on the surveys referred to in Article 3 and on the monitoring referred to in paragraph 7 of Article 6 the specified organism is not detected in a demarcated area for a period of 5 years, this demarcation may be lifted. In such cases, the Member State concerned shall notify the Commission and other Member States.

([1]) Commission Implementing Decision 2014/917/EU of 15 December 2014 setting out detailed rules for the implementation of Council Directive 2000/29/EC as regards the notification of the presence of harmful organisms and of measures taken or intended to be taken by the Member States (OJ L 360, 17.12.2014, p. 59).

6. By way of derogation from paragraph 1, the Member State may decide not to establish a demarcated area immediately where all of the following conditions are fulfilled:

(a) there is evidence that the specified organism was recently introduced into the area with the plants on which it was found;

(b) there is an indication that those plants were infected before their introduction into the area concerned;

(c) no vectors carrying the specified organism have been detected, on the basis of tests carried out in accordance with internationally validated testing methods, in the vicinity of those plants.

7. In the case referred to in paragraph 6, the Member State shall:

(a) carry out an annual survey for at least 2 years to determine whether any plants have been infected other than those on which the specified organism was first found to be present;

(b) on the basis of that survey, determine whether there is a need to establish a demarcated area;

(c) notify to the Commission and the other Member States the justification for not establishing a demarcated area, and the outcome of the survey referred to in point (a) as soon as they become available.

Article 5

Prohibition concerning the planting of host plants in infected zones

The planting of host plants in infected zones shall be prohibited, except in sites which are physically protected against the introduction of the specified organism by its vectors.

Article 6

Eradication measures

1. The Member State having established the demarcated area referred to in Article 4 shall take in that area the measures as set out in paragraphs 2 to 11.

2. The Member State concerned shall, within a radius of 100 m around the plants which have been tested and found to be infected by the specified organism, immediately remove:

(a) host plants, regardless of their health status;

(b) plants known to be infected by the specified organism;

(c) plants showing symptoms indicating possible infection by that organism or suspected to be infected by that organism.

3. The Member State concerned shall sample and test the specified plants within a radius of 100 m around each of the infected plants, in accordance with the International Standard for Phytosanitary Measures ISPM No 31 ([1]).

4. The Member State concerned shall carry out appropriate phytosanitary treatments prior to the removal of plants referred to in paragraph 2 against the vectors of the specified organism and plants that may host those vectors. Those treatments may include, as appropriate, removal of plants.

5. The Member State concerned shall, *in situ* or in a nearby location designated for this purpose within the infected zone, destroy the plants and parts of plants referred to in paragraph 2, in a manner ensuring that the specified organism is not spread.

([1]) Methodologies for sampling of consignments — Reference Standard ISPM No 31 by the Secretariat of the International Plant Protection Convention, Rome. Published 2008.

6. The Member State concerned shall carry out appropriate investigations to identify the origin of the infection. It shall trace the specified plants associated with the case of infection concerned, including those which were moved before a demarcated area was established. The results of such investigations shall be communicated to Member States in which those plants concerned originate, to the Member States through which those plants have moved and to the Member States where those plants have moved into.

7. The Member State concerned shall monitor the presence of the specified organism by annual surveys at appropriate times. It shall carry out visual inspections of the specified plants and sample and test symptomatic plants, as well as asymptomatic plants in the proximity of the symptomatic ones.

In buffer zones, the surveyed area shall be based on a grid split into 100 m × 100 m squares. Visual inspections shall take place in each of those squares.

8. The Member State concerned shall raise public awareness concerning the threat of the specified organism and concerning the measures adopted to prevent its introduction into and spread within the Union. It shall set up road signs indicating the delimitation of the respective demarcated area.

9. The Member State concerned shall, where necessary, take measures addressing any particularity or complication that could reasonably be expected to prevent, hinder or delay eradication, in particular those related to the accessibility and adequate destruction of all plants that are infected or suspected of infection, irrespective of their location, public or private ownership or the person or entity responsible for them.

10. The Member State concerned shall take any other measure, which may contribute to the eradication of the specified organism, in accordance with ISPM No 9 ([1]) and applying an integrated approach in accordance with the principles set out in ISPM No 14 ([2]).

11. The Member State concerned shall apply appropriate agricultural practices for the management of the specified organism and its vectors.

Article 7

Containment measures

1. By way of derogation from Article 6, only in the province of Lecce, the responsible official body of the Member State concerned may decide to apply containment measures, as set out in paragraphs 2 to 6, (hereinafter: 'containment area').

2. The Member State concerned shall immediately remove at least all plants which have been found to be infected by the specified organism if they are situated in any of the following locations:

(a) in the proximity of the sites referred to in Article 9(2);

(b) in the proximity of the sites of plants with particular cultural, social or scientific value;

(c) within a distance of 20 km from the border of the containment area with the rest of the Union territory.

All necessary precautions shall be taken to avoid spreading of the specified organism during and after removal.

3. The Member State concerned shall, within a radius of 100 m around the plants referred to in paragraph 2 and which have been found to be infected by the specified organism, sample and test the host plants, in accordance with the International Standard for Phytosanitary Measures ISPM No 31. That testing shall be carried out at regular intervals and, at least, twice a year.

4. The Member State concerned shall apply appropriate phytosanitary treatments prior to the removal of plants referred to in paragraph 2 against the vectors of the specified organism and plants that may host those vectors. Those treatments may include, as appropriate, removal of plants.

([1]) Guidelines for pest eradication programmes — Reference Standard ISPM No 9 by the Secretariat of the International Plant Protection Convention, Rome. Published 15 December 2011.

([2]) The use of integrated measures in a systems approach for pest risk management — Reference Standard ISPM No 14 by the Secretariat of the International Plant Protection Convention, Rome. Published 8 January 2014.

5. The Member State concerned shall, *in situ* or in a nearby location designated for this purpose within the containment area, destroy the plants and parts of plants referred to in paragraph 2, in a manner ensuring that the specified organism is not spread.

6. The Member State concerned shall apply appropriate agricultural practices for the management of the specified organism and its vectors.

Article 8

Establishment of a surveillance zone in Italy

1. A surveillance zone with a width of at least 30 km shall be established adjacent to the demarcated area covering the infected zone of the province of Lecce.

2. In the surveillance zone referred to in paragraph 1, the Member State concerned shall monitor the presence of the specified organism by annual surveys at appropriate times during the year. It shall carry out visual inspections of the specified plants and sample and test symptomatic plants.

The surveyed area shall be based on a grid split into 100 m × 100 m squares. Visual inspections shall take place in each of those squares.

The number of samples, methodology and results shall be indicated in the report referred to in Article 14.

3. The Member State concerned shall apply appropriate agricultural practices for the management of the specified organism and its vectors.

Article 9

Movement of specified plants within the Union

1. The movement within the Union, within or out of the demarcated areas, of specified plants which have been grown for at least part of their life in a demarcated area established in accordance with Article 4, shall be prohibited.

2. By way of derogation of paragraph 1, such movement can take place if the specified plants have been grown in a site where all of the following conditions are fulfilled:

(a) it is registered in accordance with Commission Directive 92/90/EEC ([1]);

(b) it is authorised by the responsible official body as a site free from the specified organism and its vectors, taking into account the relevant International Standards for Phytosanitary Measures;

(c) it is physically protected against the introduction of the specified organism by its vectors;

(d) it is surrounded by a zone with a width of 200 meters which has been found by official visual inspection and, in the case of suspected presence of the specified organism, by sampling and testing, to be free from the specified organism, and is subject to appropriate phytosanitary treatments against the vectors of the specified organism; those treatments may include, as appropriate, removal of plants;

(e) it is subject to appropriate phytosanitary treatments to maintain freedom from vectors of the specified organism; those treatments may include, as appropriate, removal of plants;

(f) it is subjected annually, together with the zone referred to in point (d), to at least two official inspections carried out at appropriate times;

(g) throughout the time of growth of the specified plants, neither symptoms of the specified organism nor its vectors were found in the site or, if suspect symptoms were observed, tests carried out confirmed the absence of the specified organism;

(h) throughout the time of growth of the specified plants, no symptoms of the specified organism were found in the zone referred to in point (d) or, if suspect symptoms were observed, testing has been undertaken and absence of the specified organism has been confirmed.

([1]) Commission Directive 92/90/EEC of 3 November 1992 establishing obligations to which producers and importers of plants, plant products or other objects are subject and establishing details for their registration (OJ L 344, 26.11.1992, p. 38).

3. Representative samples of each species of specified plants from each site have been subject to annual testing, at the most appropriate time, and the absence of the specified organism has been confirmed on the basis of tests carried out in accordance with internationally validated testing methods.

4. As practically close to the time of movement as possible the lots of the specified plants were subjected to official visual inspection, sampling and molecular testing carried out in accordance with internationally validated testing methods, using a sampling scheme able to identify with 99 % reliability a level of presence of infected plants of 1 % or above and targeted especially at plants displaying suspect symptoms of the specified organism, in accordance with ISPM No 31.

5. Prior to movement, the lots of the specified plants were subjected to phytosanitary treatments against any of the vectors of the specified organism.

6. Specified plants moving through or within demarcated areas shall be transported in closed containers or packaging, ensuring that infection with the specified organism or any of its vectors cannot occur.

7. All plants referred to in paragraph 1, shall only be moved to and within the Union territory, if they are accompanied by a plant passport prepared and issued in accordance with Commission Directive 92/105/EEC [1].

Article 10

Traceability

1. Professional operators supplying specified plants which have been grown for at least part of their lives in a demarcated area, or which have been moved through such an area, shall keep a record of each lot supplied and of the professional operator who received it.

2. Professional operators being supplied with specified plants which have been grown for at least part of their life in a demarcated area, or which have been moved through such an area, shall keep a record of each lot received and of the supplier.

3. Professional operators shall keep the records referred to in paragraphs 1 and 2 for 3 years from the date on which the respective lot was supplied to or by them.

4. The professional operators referred to in paragraphs 1 and 2 shall immediately inform their respective responsible official bodies of each lot supplied or received by them. That information shall include the origin, consigner, consignee, place of destination, individual serial, week or batch number of the plant passport and identity and quantity of the lot concerned.

5. A responsible official body receiving information pursuant to paragraph 4 shall immediately inform the responsible official body of the place of destination of the lot concerned.

6. The Member States shall, upon request, make available the information referred to in paragraph 4 to the Commission.

Article 11

Official checks on movements of specified plants

1. Member States shall carry out regular official checks on specified plants being moved out of a demarcated area, or from an infected zone to a buffer zone.

Such checks shall be performed at least in:

(a) the points where the specified plants are moved from infected zones into buffer zones;

(b) the points where the specified plants are moved from buffer zones into non-demarcated areas;

[1] Commission Directive 92/105/EEC of 3 December 1992 establishing a degree of standardization for plant passports to be used for the movement of certain plants, plant products or other objects within the Community, and establishing the detailed procedures related to the issuing of such plant passports and the conditions and detailed procedures for their replacement (OJ L 4, 8.1.1993, p. 22).

(c) the place of destination of the specified plants in the buffer zone;

(d) the place of destination in the non-demarcated areas.

2. The checks as referred to in paragraph 1 shall include a documentary check, and an identity check of the specified plants.

The checks as referred to in paragraph 1 shall be carried out irrespective of the location of the specified plants, ownership or the person or entity responsible for them.

3. The intensity of the checks referred to in paragraph 2 shall be based on the risk that the plants carry the specified organism or the known or potential vectors, taking into account the provenance of the lots, the degree of susceptibility of the plants, and the compliance by the professional operator responsible for the movement with this Decision and with any other measure taken to contain or eradicate the specified organism.

Article 12

List of authorised sites

Member States shall establish and update a list of all sites authorised in accordance with Article 9(2).

The Member States shall submit that list to the Commission.

On the basis of the information received from the Member States, the Commission shall establish and update a list of all sites authorised in the Member States.

The Commission shall transmit that list to any Member State.

Article 13

Measures in case of non-compliance with Article 9

Where the checks referred to in Article 11(2) show that the conditions laid down in Article 9 are not satisfied, the Member State which carried out those checks shall immediately destroy the non-compliant plant *in situ* or in a nearby location. That action shall be carried out taking all necessary precautions to avoid spreading of the specified organism, and any vectors carried by that plant, during and after removal.

Article 14

Reporting on measures

Member States shall by 31 December of each year communicate to the Commission and to the other Member States:

(a) a report on the measures taken pursuant to Articles 3, 4, 6, 7, 8 and 11 and on the results of those measures;

(b) a plan about the measures, including the scheduled time period of each measure, to be taken pursuant to Articles 3, 4, 6, 7, 8 and 11 in the following year.

In case the Member State concerned decides to apply containment measures pursuant to Article 7, it shall immediately communicate to the Commission the reasons to apply containment measures, and measures taken or intended to be taken.

Where justified by the development of the respective phytosanitary risk, Member States shall adapt the respective measures and accordingly update the plan referred to point (b). They shall immediately communicate to the Commission and the other Member States the update of the plan.

Article 15

Prohibition of the introduction of plants for planting, other than seeds, of *Coffea* originating in Costa Rica or Honduras

The introduction into the Union of plants for planting, other than seeds, of *Coffea* originating in Costa Rica or Honduras shall be prohibited.

Plants for planting, other than seeds, of *Coffea* originating in Costa Rica or Honduras which have been introduced into the Union before the application of this Decision, shall only be moved within the Union by professional operators after they have informed the responsible official body.

Article 16

Introduction into the Union of specified plants originating in a third country where the specified organism is not present

Specified plants originating in a third country where the specified organism is not present may be introduced into the Union if the following conditions are fulfilled:

(a) the national plant protection organisation of the third country concerned has communicated in writing to the Commission that the specified organism is not present in the country;

(b) the specified plants are accompanied by a phytosanitary certificate, as referred to in Article 13(1)(ii) of Directive 2000/29/EC, stating under the rubric 'Additional Declaration' that the specified organism is not present in the country;

(c) on entry into the Union the specified plants have been checked by the responsible official body in accordance with Article 18(2) and neither presence nor symptoms of the specified organism have been found.

Article 17

Introduction into the Union of specified plants originating in a third country where the specified organism is known to be present

1. Specified plants originating in a third country where the specified organism is known to be present may be introduced into the Union where the following conditions are fulfilled:

(a) they are accompanied by a phytosanitary certificate, as referred to in Article 13(1)(ii) of Directive 2000/29/EC;

(b) they comply with paragraph 2 or with paragraphs 3 and 4;

(c) on entry into the Union they have been checked by the responsible official body in accordance with Article 18 and neither presence nor symptoms of the specified organism have been found.

2. Where specified plants originate in an area free from the specified organism, as established by the national plant protection organisation concerned in accordance with relevant International Standards for Phytosanitary Measures, the following conditions shall be fulfilled:

(a) the national plant protection organisation of the third country concerned has communicated in writing to the Commission the name of that area;

(b) the name of that area is stated in the phytosanitary certificate under the rubric 'place of origin'.

3. Where specified plants originate in an area where the specified organism is known to be present, the phytosanitary certificate shall state under the rubric 'Additional Declaration' that:

(a) the specified plants have been produced in one or more sites fulfilling the conditions set out in paragraph 4;

(b) the national plant protection organisation of the third country concerned has communicated in writing to the Commission the list of those sites, including their location within the country;

(c) phytosanitary treatments against the vectors of the specified organism are applied in the site and its zone as referred to in paragraph 4(c);

(d) representative samples of each species of specified plants from each site have been subject to annual testing, at the most appropriate time, and the absence of the specified organism has been confirmed on the basis of tests carried out in accordance with internationally validated testing methods;

(e) the specified plants have been transported in closed containers or packaging, ensuring that infection with the specified organism or any of its known vectors cannot occur;

(f) as practically close to the time of export as possible, the lots of the specified plants were subjected to official visual inspection, sampling and molecular testing, carried out in accordance with internationally validated testing methods, confirming the absence of the specified organism, using a sampling scheme able to identify with 99 % reliability a level of presence of infected plants of 1 % or above and targeted especially at plants displaying suspect symptoms of the specified organism;

(g) immediately prior to export, the lots of the specified plants were subjected to phytosanitary treatments against any of the known vectors of the specified organism.

In addition, the phytosanitary certificate referred to in point (a) of paragraph 1 shall indicate under the rubric 'Place of origin' the identification of the site referred to in point (a).

4. The site referred to in point (a) of paragraph 3 shall fulfil the following conditions:

(a) it is authorised by the national plant protection organisation as free from the specified organism and its vectors, in accordance with the relevant International Standards for Phytosanitary Measures;

(b) it is physically protected against the introduction of the specified organism by its vectors;

(c) it is surrounded by a zone with a width of 200 meters which has been found by official visual inspection, and, in case of suspicion of the presence of the specified organism, by sampling and testing, to be free from the specified organism, and is subject to appropriate phytosanitary treatments against the vectors of the specified organism; those treatments may include, as appropriate, removal of plants;

(d) it is subject to phytosanitary treatments that aim to maintain freedom from vectors of the specified organism; those treatments may include, as appropriate, removal of plants;

(e) it is subjected annually, together with the zone referred to in point (c), to at least two official inspections carried out at appropriate times;

(f) throughout the production time of the specified plants, neither symptoms of the specified organism nor its vectors were found in the site, or, if suspect symptoms were observed, testing has been undertaken and absence of the specified organism has been confirmed;

(g) throughout the production time of the specified plants, no symptoms of the specified organism were found in the zone referred to in point (c) or, if suspect symptoms were observed, testing has been undertaken and absence of the specified organism has been confirmed.

Article 18

Official checks at introduction into the Union

1. All consignments of specified plants introduced into the Union from a third country shall be officially checked at the point of entry into the Union or at the place of destination established in accordance with Article 1 of Commission Directive 2004/103/EC [1], and, as applicable, pursuant to paragraph 2 or 3, and paragraph 4.

[1] Commission Directive 2004/103/EC of 7 October 2004 on identity and plant health checks of plants, plant products or other objects, listed in Part B of Annex V to Council Directive 2000/29/EC, which may be carried out at a place other than the point of entry into the Community or at a place close by and specifying the conditions related to these checks (OJ L 313, 12.10.2004, p. 16).

2. In the case of specified plants originating in a third country where the specified organism is not present, the responsible official body shall carry out the following checks:

(a) a visual inspection; and

(b) in the case of suspicion of the presence of the specified organism, sampling and testing of the lot of the specified plants to confirm the absence of the specified organism or its symptoms.

3. In the case of specified plants originating in a third country where the specified organism is known to be present, the responsible official body shall carry out the following checks:

(a) a visual inspection; and

(b) sampling and testing of the lot of the specified plants to confirm the absence of the specified organism or its symptoms.

4. The samples referred to in paragraphs 2(b) and 3(b) shall be of a size that allows identifying with 99 % reliability a level of infected plants of 1 % or above, taking account of ISPM No 31.

Article 19

Compliance

Member States shall repeal or amend the measures which they have adopted to protect themselves against the introduction and spread of the specified organism in order to comply with this Decision. They shall immediately inform the Commission of those measures.

Article 20

Repeal

Implementing Decision 2014/497/EU is repealed.

Article 21

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 18 May 2015.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX I

List of plants known to be susceptible to the European and non-European isolates of the specified organism ('specified plants')

Acacia longifolia (Andrews) Willd.

Acacia saligna (Labill.) H. L. Wendl.

Acer

Aesculus

Agrostis gigantea Roth

Albizia julibrissin Durazz.

Alnus rhombifolia Nutt.

Alternanthera tenella Colla

Amaranthus blitoides S. Watson

Ambrosia acanthicarpa Hook.

Ambrosia artemisiifolia L.

Ambrosia trifida L.

Ampelopsis arborea (L.) Koehne

Ampelopsis cordata Michx.

Artemisia douglasiana Hook.

Artemisia vulgaris var. *heterophylla* (H.M. Hall & Clements) Jepson

Avena fatua L.

Baccharis halimifolia L.

Baccharis pilularis DC.

Baccharis salicifolia (Ruiz & Pav.)

Bidens pilosa L.

Brachiaria decumbens (Stapf)

Brachiaria plantaginea (Link) Hitchc.

Brassica

Bromus diandrus Roth

Callicarpa americana L.

Capsella bursa-pastoris (L.) Medik.

Carex

Carya illinoinensis (Wangenh.) K. Koch

Cassia tora (L.) Roxb.

Catharanthus

Celastrus orbiculata Thunb.

Celtis occidentalis L.

Cenchrus echinatus L.

Cercis canadensis L.

Cercis occidentalis Torr.

Chamaecrista fasciculata (Michx.) Greene

Chenopodium quinoa Willd.

Chionanthus

Chitalpa tashkinensis T. S. Elias & Wisura

Citrus

Coelorachis cylindrica (Michx.) Nash

Coffea

Commelina benghalensis L.

Conium maculatum L.

Convolvulus arvensis L.

Conyza canadensis (L.) Cronquist

Cornus florida L.

Coronopus didymus (L.) Sm.

Cynodon dactylon (L.) Pers.

Cyperus eragrostis Lam.

Cyperus esculentus L.

Cytisus scoparius (L.) Link

Datura wrightii Regel

Digitaria horizontalis Willd.

Digitaria insularis (L.) Ekman

Digitaria sanguinalis (L.) Scop.

Disphania ambrosioides (L.) Mosyakin & Clemants

Duranta erecta L.

Echinochloa crus-galli (L.) P. Beauv.

Encelia farinosa A. Gray ex Torr.

Eriochloa contracta Hitchc.

Erodium

Escallonia montevidensis Link & Otto

Eucalyptus camaldulensis Dehnh.

Eucalyptus globulus Labill.

Eugenia myrtifolia Sims

Euphorbia hirta L.

Fagus crenata Blume

Ficus carica L.

Fragaria vesca L.

Fraxinus americana L.

Fraxinus dipetala Hook. & Arn.

Fraxinus latifolia Benth.

Fraxinus pennsylvanica Marshall

Fuchsia magellanica Lam.

Genista monspessulana (L.) L. A. S. Johnson

Geranium dissectum L.

Ginkgo biloba L.

Gleditsia triacanthos L.

Hedera helix L.

Helianthus annuus L.

Hemerocallis

Heteromeles arbutifolia (Lindl.) M. Roem.

Hibiscus schizopetalus (Masters) J.D. Hooker

Hibiscus syriacus L.

Hordeum murinum L.

Hydrangea paniculata Siebold

Ilex vomitoria Sol. ex Aiton

Ipomoea purpurea (L.) Roth

Iva annua L.

Jacaranda mimosifolia D. Don

Juglans

Juniperus ashei J. Buchholz

Koelreuteria bipinnata Franch.

Lactuca serriola L.

Lagerstroemia indica L.

Lavandula dentata L.

Ligustrum lucidum L.

Lippia nodiflora (L.) Greene

Liquidambar styraciflua L.

Liriodendron tulipifera L.

Lolium perenne L.

Lonicera japonica (L.) Thunb.

Ludwigia grandiflora (Michx.) Greuter & Burdet

Lupinus aridorum McFarlin ex Beckner

Lupinus villosus Willd.

Magnolia grandiflora L.

Malva

Marrubium vulgare L.

Medicago polymorpha L.

Medicago sativa L.

Melilotus

Melissa officinalis L.

Metrosideros

Modiola caroliniana (L.) G. Don

Montia linearis (Hook.) Greene

Morus

Myrtus communis L.

Nandina domestica Murray

Neptunia lutea (Leavenw.) Benth.

Nerium oleander L.

Nicotiana glauca Graham

Olea europaea L.

Origanum majorana L.

Paspalum dilatatum Poir.

Persea americana Mill.

Phoenix reclinata Jacq.

Phoenix roebelenii O'Brien

Pinus taeda L.

Pistacia vera L.

Plantago lanceolata L.

Platanus

Pluchea odorata (L.) Cass.

Poa annua L.

Polygala myrtifolia L.

Polygonum arenastrum Boreau

Polygonum lapathifolium (L.) Delarbre

Polygonum persicaria Gray

Populus fremontii S. Watson

Portulaca

Prunus

Pyrus pyrifolia (Burm. f.) Nakai

Quercus

Ranunculus repens L.

Ratibida columnifera (Nutt.) Wooton & Standl.

Rhamnus alaternus L.

Rhus diversiloba Torr. & A. Gray

Rosa californica Cham. & Schldl.

Rosmarinus officinalis L.

Rubus

Rumex crispus L.

Salix

Salsola tragus L.

Salvia mellifera Greene

Sambucus

Sapindus saponaria L.

Schinus molle L.

Senecio vulgaris L.

Setaria magna Griseb.

Silybum marianum (L.) Gaertn.

Simmondsia chinensis (Link) C. K. Schneid.

Sisymbrium irio L.

Solanum americanum Mill.

Solanum elaeagnifolium Cav.

Solidago virgaurea L.

Sonchus

Sorghum

Spartium junceum L.

Spermacoce latifolia Aubl.

Stellaria media (L.) Vill.

Tillandsia usneoides (L.) L.

Toxicodendron diversilobum (Torr. & A. Gray) Greene

Trifolium repens L.

Ulmus americana L.

Ulmus crassifolia Nutt.

Umbellularia californica (Hook. & Arn.) Nutt.

Urtica dioica L.

Urtica urens L.

Vaccinium

Verbena litoralis Kunth

Veronica

Vicia faba L.

Vinca

Vitis

Westringia fruticosa (Willd.) Druce

Xanthium spinosum L.

Xanthium strumarium L.

ANNEX II

List of plants known to be susceptible to the European isolates of the specified organism ('host plants')

Acacia saligna (Labill.) Wendl.

Catharanthus

Myrtus communis L.

Nerium oleander L.

Olea europaea L.

Polygala myrtifolia L.

Prunus avium (L.) L.

Prunus dulcis (Mill.) D.A. Webb

Rhamnus alaternus L.

Rosmarinus officinalis L.

Spartium junceum L.

Vinca

Westringia fruticosa (Willd.) Druce

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