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



## I

*(Resolutions, recommendations and opinions)*

## OPINIONS

## EUROPEAN COMMISSION

## COMMISSION OPINION

of 18 December 2014

**on the European Central Bank's Recommendation for a Council Regulation amending Regulation (EC) No 2532/98 concerning the powers of the European Central Bank to impose sanctions (ECB/2014/19)**

(2014/C 461/01)

## 1. INTRODUCTION

1. On 11 June 2014, the European Central Bank (ECB) submitted a Recommendation for a Council Regulation amending Regulation (EC) No 2532/98 concerning the powers of the European Central Bank to impose sanctions (ECB/2014/19) to the Council. On 25 June 2014 the Council consulted the European Commission on this Recommendation.
2. The Commission welcomes the initiative of the ECB to recommend amendments to Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions <sup>(1)</sup> (Council Sanctions Regulation), which enables the Council to take the adoption of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions <sup>(2)</sup> ('SSM Regulation') into account in its Sanctions Regulation.
3. The SSM Regulation empowers the ECB to impose penalties and sanctions in the supervisory field and refers in Article 18 to the Council Sanctions Regulation. Since the latter was adopted before the SSM Regulation and was targeted to the non-supervisory field, the Commission supports a modification of this Regulation to create a comprehensive and clear legal framework for the imposition of sanctions by the ECB in the area of supervision.
4. The ECB recommends in particular to insert in the Council Sanctions Regulation:
  - (1) a new Article 1a to define some general principles applying to administrative penalties imposed by the ECB in the exercise of its supervisory tasks and sanctions imposed in the exercise of its non-supervisory tasks and to specify the scope of the different provisions applying to them;
  - (2) new Articles 4a to 4c concerning the regime applicable to administrative penalties imposed by the ECB in the exercise of its supervisory tasks. The purpose of these new articles is to achieve a differentiation between the regime applying to the imposition of administrative penalties by the ECB in the exercise of its supervisory tasks and the provisions applicable to sanctions that the ECB may impose in the exercise of its non-supervisory tasks. This is to ensure that a single regime applies to all ECB administrative penalties imposed in the supervisory field, while also taking into account the rules laid down in the SSM Regulation; and
  - (3) to make additional amendments to ensure that the principles and procedures governing the imposition of sanctions laid down in Articles 2 to 4 of the Council Sanctions Regulation are compatible with those governing the imposition by the ECB of administrative penalties in the exercise of its supervisory tasks under the SSM Regulation.

<sup>(1)</sup> OJ L 318, 27.11.1998, p. 4.

<sup>(2)</sup> OJ L 287, 29.10.2013, p. 63.

## 2. GENERAL COMMENTS

5. Sanctions by the ECB can have a major impact on market operators. Decisions imposing sanctions can also be subject to legal challenge. Therefore, the rules that apply should be clear, consistent and provide legal certainty to ensure that market operators can know the applicable procedural and substantial rules. Such clarity, consistency and legal certainty is also important in relation to the interaction of different legal acts.
6. Since the Council Sanctions Regulation is based on Article 132(3) TFEU it can only deal with infringements of ECB regulations and decisions, not with infringements to (other) directly applicable acts of Union law. Therefore, all recommended amendments covering breaches of directly applicable Union law other than ECB regulations and decisions may not be retained in the Council Regulation.
7. The interaction between relevant provisions of the SSM Regulation, the Council Sanctions Regulation and Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities <sup>(1)</sup> ('SSM Framework Regulation') deserves to be further clarified.
8. In that context it is also essential to avoid that different formulations in different acts cast doubts on the interpretation of the provisions. The Commission also calls upon the ECB to repeal, after adoption of the amendments to the Council Sanctions Regulation, fully or partially the provisions from its SSM Framework Regulation that would be (almost) identical to the provisions of the amended Council Sanctions Regulation.

## 3. SPECIFIC COMMENTS

### Comments on the recommended Article 1(a)

9. The recommended Article 1a(1) would define the scope of the Council Sanctions Regulation. This Article stipulates that the Regulation shall apply to the imposition by the ECB of sanctions on undertakings for failure to comply with obligations arising from ECB decisions or regulations, unless otherwise expressly provided. The 'unless otherwise expressly provided' refers to the provisions that would also apply in case of breach of directly applicable Union law. For the reasons set out in point 6 the Commission suggests that Article 1a(1) is formulated as follows.

'This Regulation shall apply to the imposition by the ECB of sanctions on undertakings for failure to comply with obligations arising from ECB regulations or decisions.'

10. The ECB recommends the Council to insert an Article 1a(2) in the Council Sanctions Regulation that has the objective to clarify the scope of the specific rules that derogate from the rules in the existing Council Sanctions Regulation. For decisions to impose sanctions outside the supervisory field the existing provisions in the Council Sanctions Regulation would continue to apply.
11. Although the Commission shares the objective of the ECB to modify the Council Sanctions Regulation to take into account the adoption of the SSM Regulation, the Commission is concerned that the provision suggested by the ECB would create additional problems. In particular, currently Article 1a(2) read together with Article 4b could be interpreted as meaning that the existing decision-taking procedures from the Council Sanctions Regulation would apply to the imposition by the ECB of administrative pecuniary penalties for breach of directly applicable Union law. This would mean that the ECB's Executive Board would take decisions and no involvement of the Supervisory Board would be foreseen. This would be avoided where the scope of the amendments to the Council Sanctions Regulation would be restricted to infringements of ECB regulations and decisions, which is imperative in view of the legal basis of the Council Sanctions Regulation.
12. Since the Council Sanction Regulation may only apply to the imposition of sanctions for infringements of ECB regulations and decisions and not to breaches of directly applicable Union law the Commission suggests that Article 1a(2) is worded as follows:

'The rules applying to the imposition by the ECB, in the exercise of the tasks conferred upon it by Council Regulation (EU) No 1024/2013, of sanctions for breaches of ECB regulations and decisions shall derogate from the rules laid down in Articles 2 to 4 to the extent laid down in Articles 4a to 4c.'

<sup>(1)</sup> OJ L 141, 14.5.2014, p. 1.

13. As regards the publication of administrative pecuniary penalties and sanctions the recommended Article 1a(3) would provide that the ECB *may publish* any decision imposing administrative pecuniary penalties for breaches of directly applicable Union law and sanctions for breaches of ECB regulations or decisions, both in the supervisory and non-supervisory fields.
14. In view of the legal bases of the Council Sanctions Regulation the scope of the Article on publication would need to be restricted so it only covers infringements of ECB regulations and decisions.
15. The approach taken by the Recommendation on publication is not consistent with the SSM Regulation. According to Article 18(6) of the SSM Regulation 'the ECB shall publish any penalty referred to paragraph 1, whether it has been appealed or not, in the cases and in accordance with the conditions set out in relevant Union law.' This provision applies to publication of penalties in case of breach of directly applicable legal acts of Union law (Article 18(1) SSM Regulation). The relevant Union law is in particular Article 68 of CRD IV.
16. Neither the SSM Regulation, nor the Council Sanctions Regulation contain provisions on the publication of sanctions for breach of ECB regulations and decisions in the supervisory and non-supervisory field. The Commission supports the introduction of a publication regime for such sanctions and would favour an approach that is consistent with the regime in the SSM Regulation for breach of directly applicable Union law. The Commission would therefore suggest creating a publication regime for breach of ECB decisions and regulations that is identical to the regime for breaches of directly applicable Union law.
17. In order to ensure consistency and to create a clear and comprehensive framework for publication of sanctions for infringements of ECB regulations and decisions Article 1a(3) could be formulated as follows, taking into account both Article 18(6) of the SSM Regulation and Article 68 of CRD IV.

'The ECB shall without undue delay publish on its official website any decision imposing on an undertaking sanctions for breaches of ECB regulations or decisions, both in the supervisory and non-supervisory fields. Publication shall take place after the decision has been notified to the undertaking concerned and include information on the type and nature of the breach and the identity of the undertaking concerned, unless publication in this manner would either:

- (a) jeopardise the stability of financial markets or an on-going criminal investigation; or
- (b) cause, insofar as it can be determined, disproportionate damage to the undertaking concerned.

In these circumstances, such decisions shall be published on an anonymised basis. Alternatively, where such circumstances are likely to cease within a reasonable period of time, publication under this paragraph may be postponed for such period of time.

If an appeal to the Court of Justice in respect of a decision is pending, the ECB shall, without undue delay, also publish on its official website information on the status of the appeal in question and the outcome thereof. The ECB shall ensure that information published in accordance with this paragraph remains on its official website for at least five years.'

18. Finally, since Article 132 of the SSM Framework Regulation provides a full publication regime for decisions imposing on the entities concerned administrative pecuniary penalties for breaches of directly applicable Union law and sanctions for breaches of ECB regulations or decisions in the supervisory field, the Commission would be in favour of repealing this Article from the SSM Framework Regulation in so far as it also covers breaches of ECB regulations and decisions, since it would, after adoption of the above Article, not serve a purpose anymore.

#### Comments on the recommended Article 4a

19. The recommended Article 4a(1) would create specific rules regarding the upper limits of sanctions that can be imposed by the ECB in case of infringements of ECB regulations and decisions in the exercise of its supervisory tasks. For the non-supervisory tasks the upper limits of the existing Council Sanctions Regulation would remain in force, while in case of breach of directly applicable Union law the upper limits are defined by Article 18(1) of the SSM Regulation.

20. The ECB recommends that for periodic penalty payments the upper limit is 5 % of the average daily turnover per day of infringement. For fines the recommended upper limit is 10 % of the total annual turnover. The latter coincides with Article 18(1) of the SSM Regulation. However, for the percentage of 5 % there is no precedent in the SSM Regulation and the ECB Recommendation does not explain why a different percentage should be chosen. Consequently, the reasons for this choice should at least be explained in the recitals of the Council Regulation.
21. The recommended Article 4a(2) provides a definition of annual turnover that does not correspond to the definitions in Articles 18(1) of the SSM Regulation and Article 67(2)(e) of CRD IV that apply to the imposition of administrative pecuniary penalties for the breach of directly applicable Union law. Since such divergent definitions could lead to different interpretations, the Commission would suggest that the provision is consistent with both the SSM Regulation and CRD IV:

‘For the purpose of paragraph 1: (a) “total annual turnover” means the total annual net turnover of a legal person, including the gross-income consisting of interest receivable and similar income, income from shares and other variable or fixed-yield securities, and commissions or fees of the undertaking in the preceding business year. Where the undertaking is a subsidiary of a parent undertaking, the relevant gross income shall be the gross income in the preceding business year resulting from the consolidated annual financial accounts of the ultimate parent undertaking in the group supervised by the ECB; (b) “average daily turnover” means the total annual turnover, as defined under (a), divided by 365.’

#### **Comments on the recommended Article 4b**

22. The objective of the recommended Article 4b is to define the decision making procedure in the supervisory field. Since it would derogate from the decision making procedures in the existing Council Sanctions Regulation it would only apply to infringements of ECB regulations and decisions (Article 18(7) SSM Regulation) and not to breach of directly applicable Union law (Article 18(1) SSM Regulation).
23. However, the decision making procedure for the imposition by the ECB of all administrative penalties in the supervisory field is stipulated in the SSM Regulation (in particular in Articles 26(8) and 24). For this reason, the Commission does not see any merit in creating a specific article dealing with decision making procedures and would thus suggest that Article 4b contains merely a declaratory reference to the SSM Regulation. The Article could be worded as follows:

‘By way of derogation from Article 3(1) to (8), decisions of the ECB concerning infringements relating to ECB regulations and decisions in the supervisory field are taken in accordance with the procedures foreseen in Regulation (EU) No 1024/2013.’

24. It is to be stressed that a reading of or changes to Article 4b which would impose a separation between investigative and decision making powers by the creation of, for instance, an investigative unit within the ECB would not be legally required. Decisions of the ECB imposing sanctions for breaches of ECB regulations and decisions in the supervisory field, are subject to full jurisdiction of the Court of Justice according to Article 261 TFEU in connection with Article 5 of the Council Sanctions Regulation since Article 18(7) of the SSM Regulation refers to the entire Council Sanctions Regulation, including its Article 5. The Commission would moreover have serious doubts as regards the power of the Council to impose such requirements with regard to the internal organisation of the ECB.

#### **Comments on the recommended Article 4c**

25. The recommended Article 4c sets certain time limits for the imposition of administrative penalties by the ECB in the exercise of its supervisory tasks. The recommended Article would apply in case of breaches of directly applicable Union law and for infringements of ECB regulations and decisions. In view of the above comments, the Commission is of the view that this article should not apply to breaches of directly applicable Union law other than breaches of ECB regulations and decisions. The time-limits for non-supervisory ECB decisions are set out in Article 4 of the current Council Sanctions Regulation.
26. The Commission notes that the recommended provisions overlap to a large extent with Articles 130 and 131 of the SSM Framework Regulation and that the ECB Recommendation does not provide explanations on the interaction between these provisions and why to a large extent identical provisions should be part of two different legal



instruments. If the Council decided to adopt the recommended provisions, it would in the Commission's view be important to repeal Articles 130 and 131 of the SSM Framework Regulation as far as they cover breaches of ECB regulations and decisions.

27. As regards the substance, Article 4 (c) is obviously based on Article 25 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty <sup>(1)</sup>, but the drafting should be improved in a number of cases. First, in paragraph 1, 'continued' should be replaced by 'continuing or repeated infringements', also to avoid discussions on marginal situations. For that reason Article 4c(1) should be formulated as follows:

'By way of derogation from Article 4, the right to take a decision to impose a sanction with regard to infringements of decisions and regulations adopted by the ECB in the exercise of its supervisory tasks, shall expire five years after the infringement occurred or, in the case of continuing or repeated infringements, five years after the infringement ceased.'

28. Secondly, Article 4c(2) links the interruption of the limitation period to 'any action' of the ECB that is notified to the supervised entity. The notion of 'any action' is however rather imprecise, since it would appear that any measure taken in the supervisory field could be considered to be 'action' in the sense of this paragraph. Also the notion of 'notification' is not defined in the Regulation, which could lead to further legal uncertainty. In the Commission's view the interruption of the limitation period should be linked to an objective moment that can be clearly identified. This could for instance be the opening of an infringement procedure or the formal opening of an investigation that is notified to the undertaking concerned. This would not only provide more legal certainty for undertakings, but also for the ECB itself.

29. The intention of Article 4c(3) is to ensure that in certain situations the limitation period in Article 4c is automatically extended. However, part of the provision seems to suggest that a decision should be taken to extend the time limits. The drafting of the provision should therefore be clarified.

'The time limits described in the preceding paragraphs shall be automatically extended if: (a) a decision of the ECB is subject to review before the Administrative Board of Review or to legal challenge before the Court of Justice of the European Union; or (b) criminal proceedings are pending against the concerned undertaking in connection with the same facts. In such a case, the time limits described in the previous paragraphs shall be extended for the period of time it takes for the Administrative Board of Review or the Court of Justice to conclude the proceedings or until conclusion of the criminal proceedings against the concerned undertaking.'

30. The recommended Article 4c(4) regulates the time limits for enforcement of payment or payments terms and conditions. As in Article 4c(2) reference is made to 'any action' by the ECB that would lead to interruption of the limitation period. No notification to the undertaking concerned is required for the extension of the limitation period. Also here the interruption of the limitation period should be linked to more objective criteria that ensure legal certainty for both undertakings and the ECB.
31. Moreover, the provision should be restructured in order to create a logical order. It should first stipulate what the limitation period is and when this period starts to run and only then stipulate in which situation the limitation period is interrupted. The Commission therefore suggests that Article 4c(4) should be worded as follows:

'The right of the ECB to enforce a decision imposing a sanction shall expire five years after the deadline for payment of the imposed sanction has passed. Any action of the ECB designed to enforce payment or payment terms and conditions under the imposed sanction shall cause the limitation period for the enforcement to be interrupted. The limitation period for the enforcement of sanctions shall be suspended if its enforcement of payment is suspended pursuant to a decision of the ECB or of the Court of Justice.'

32. The recitals should be adapted in line with the proposed changes in the Articles of the recommended Regulation.

<sup>(1)</sup> OJ L 1, 4.1.2003, p. 1.

#### 4. CONCLUSION

The Commission hereby issues a favourable opinion on the recommended amendments to the Council Sanctions Regulation, subject to the changes set out in points 6, 7, 9, 12, 14, 17, 20, 21, 23, 26, 27, 28, 29, 30, 31 and 32 of this opinion. In the annex to this opinion the amendments proposed by the Commission are provided in a tabular form. This table should be read together with the text of this opinion.

This opinion shall be forwarded to the European Parliament and the Council.

Done at Brussels, 18 December 2014.

*For the Commission*

Jonathan HILL

*Member of the Commission*

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## ANNEX

## DRAFTING PROPOSALS

Article	Text recommended by the ECB	Amendments proposed by the Commission
1a (1)	1. This Regulation shall apply to the imposition by the ECB of sanctions on undertakings for failure to comply with obligations arising from ECB decisions or regulations, unless otherwise expressly provided.	1. This Regulation shall apply to the imposition by the ECB of sanctions on undertakings for failure to comply with obligations arising from ECB regulations or decisions.
1a (2)	2. The rules applying to the imposition by the ECB, in the exercise of its supervisory tasks, of administrative pecuniary penalties for breaches of directly applicable Union law and of sanctions for breaches of ECB regulations and decisions (hereinafter jointly referred to as 'administrative penalties') shall derogate from the rules laid down in Articles 2 to 4 to the extent laid down in Articles 4a to 4c.	2. The rules applying to the imposition by the ECB, in the exercise of the tasks conferred upon it by Council Regulation (EC) No 1024/2013, of sanctions for breaches of ECB regulations and decisions shall derogate from the rules laid down in Articles 2 to 4 to the extent laid down in Articles 4a to 4c.
1a (3)	3. The ECB may publish any decision imposing on an undertaking administrative pecuniary penalties for breaches of directly applicable Union law and sanctions for breaches of ECB regulations or decisions, both in the supervisory and non-supervisory fields, whether such decision has been appealed or not. The ECB shall carry out such publication in accordance with relevant Union law, irrespective of any national law or regulation and, where relevant Union law is composed of Directives, of any national legislation transposing those Directives.	<p>3. The ECB shall without undue delay publish on its official website any decision imposing on an undertaking sanctions for breaches of ECB regulations or decisions, both in the supervisory and non-supervisory fields. Publication shall take place after the decision has been notified to the undertaking concerned and include information on the type and nature of the breach and the identity of the undertaking concerned, unless publication in this manner would either:</p> <p>(a) jeopardise the stability of financial markets or an on-going criminal investigation; or</p> <p>(b) cause, insofar as it can be determined, disproportionate damage to the undertaking concerned.</p> <p>In these circumstances, such decisions shall be published on an anonymised basis. Alternatively, where such circumstances are likely to cease within a reasonable period of time, publication under this paragraph may be postponed for such period of time.</p> <p>If an appeal to the Court of Justice in respect of a decision is pending, the ECB shall, without undue delay, also publish on its official website information on the status of the appeal in question and the outcome thereof. The ECB shall ensure that information published in accordance with this paragraph remains on its official website for at least five years.</p>

Article	Text recommended by the ECB	Amendments proposed by the Commission
4a (2)	<p>2. For the purpose of paragraph 1: (a) 'annual turnover' means the annual turnover of a legal person, as defined in relevant Union law, according to the most recently available annual financial accounts of such person. Where the undertaking is a subsidiary of a parent undertaking, the relevant total annual turnover shall be the total annual turnover resulting from the most recently available consolidated annual financial accounts of the ultimate parent undertaking in the group supervised by the ECB; (b) 'average daily turnover' means the annual turnover, as defined under (a), divided by 365.</p>	<p>2. For the purpose of paragraph 1: (a) 'total annual turnover' means the total annual net turnover of a legal person, including the gross-income consisting of interest receivable and similar income, income from shares and other variable or fixed-yield securities, and commissions or fees of the undertaking in the preceding business year. Where the undertaking is a subsidiary of a parent undertaking, the relevant gross income shall be the gross income in the preceding business year resulting from the consolidated annual financial accounts of the ultimate parent undertaking in the group supervised by the ECB; (b) 'average daily turnover' means the total annual turnover, as defined under (a), divided by 365.</p>
4b (1)	<p>1. By way of derogation from Article 3(1) to (8), the rules laid down in this Article shall apply to infringements relating to decisions and regulations adopted by the ECB in the exercise of its supervisory tasks.</p> <p>2. After the infringement procedure has been carried out pursuant to rules to be laid down by the ECB in accordance with Article 6(2), the Supervisory Board shall propose to the Governing Council a complete draft decision to impose a sanction on the undertaking concerned, in accordance with the procedure laid down in Article 26(8) of Regulation (EU) No 1024/2013. A hearing with regard to the alleged infringement committed by the undertaking concerned shall precede the submission by the Supervisory Board of the complete draft decision to the Governing Council.</p> <p>3. The undertaking concerned shall have the right to request a review by the Administrative Board of Review of the decision taken by the Governing Council pursuant to paragraph 2, in accordance with the procedure laid down in Article 24 of Regulation (EU) No 1024/2013.</p>	<p>By way of derogation from Article 3(1) to (8), decisions of the ECB concerning infringements relating to ECB regulations and decisions in the supervisory field are taken in accordance with the procedures foreseen in Regulation (EU) No 1024/2013.</p>
4c (1)	<p>1. By way of derogation from Article 4, the right to take a decision to impose an administrative penalty, with regard to infringements relating to relevant directly applicable acts of Union law as well as to decisions and regulations adopted by the ECB in the exercise of its supervisory tasks, shall expire five years after the infringement occurred or, in the case of a continued infringement, five years after the infringement ceased.</p>	<p>1. By way of derogation from Article 4, the right to take a decision to impose a sanction with regard to infringements of decisions and regulations adopted by the ECB in the exercise of its supervisory tasks, shall expire five years after the infringement occurred or, in the case of continuing or repeated infringements, five years after the infringement ceased.</p>

Article	Text recommended by the ECB	Amendments proposed by the Commission
4c (3)	<p>3. The time limits described in the preceding paragraphs can be extended if: (a) a decision of the Governing Council is subject to review before the Administrative Board of Review or appeal proceedings before the Court of Justice of the European Union; or (b) criminal proceedings are pending against the concerned undertaking in connection with the same facts. In such a case, the time limits described in the previous paragraphs shall be extended for the period of time it takes for the Administrative Board of Review or the Court of Justice to review the decision or until conclusion of the criminal proceedings against the concerned undertaking.</p>	<p>3. The time limits described in the preceding paragraphs shall be automatically extended if: (a) a decision of the ECB is subject to review before the Administrative Board of Review or to legal challenge before the Court of Justice of the European Union; or (b) criminal proceedings are pending against the concerned undertaking in connection with the same facts. In such a case, the time limits described in the previous paragraphs shall be extended for the period of time it takes for the Administrative Board of Review or the Court of Justice to conclude the proceedings or until conclusion of the criminal proceedings against the concerned undertaking.</p>
4c(4)	<p>4. Any action of the ECB designed to enforce payment or payment terms and conditions under the imposed administrative penalty shall cause the limitation period for the enforcement to be interrupted. The right of the ECB to enforce a decision to impose an administrative penalty shall expire five years after such decision has been taken. The limitation period for the enforcement of administrative penalties shall be suspended:</p> <p>(a) until the deadline for payment of the imposed administrative penalty has passed;</p> <p>(b) if enforcement of payment of the imposed administrative penalty is suspended pursuant to a decision of the Governing Council or of the Court of Justice.</p>	<p>4. The right of the ECB to enforce a decision imposing a sanction shall expire five years after the deadline for payment of the imposed sanction has passed. Any action of the ECB designed to enforce payment or payment terms and conditions under the imposed sanction shall cause the limitation period for the enforcement to be interrupted. The limitation period for the enforcement of sanctions shall be suspended if its enforcement of payment is suspended pursuant to a decision of the ECB or of the Court of Justice.</p>

## II

*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES  
AND AGENCIES

## EUROPEAN COMMISSION

**Non-opposition to a notified concentration****(Case M.7398 — Mirael/Ferrovial/NDH1)****(Text with EEA relevance)**

(2014/C 461/02)

On 19 November 2014, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 <sup>(1)</sup>. The full text of the decision is available only in the English language and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/homepage.html?locale=en>) under document number 32014M7398. EUR-Lex is the online access to European law.

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1.

**Initiation of proceedings**  
**(Case M.7292 — DEMB/Mondelēz/Charger OpCo)**  
**(Text with EEA relevance)**  
(2014/C 461/03)

On 15 December 2014, the Commission decided to initiate proceedings in the abovementioned case after finding that the notified concentration raises serious doubts as to its compatibility with the internal market. The initiation of proceedings opens a second phase investigation with regard to the notified concentration, and is without prejudice to the final decision on the case. The decision is based on Article 6(1)(c) of Council Regulation (EC) No 139/2004 <sup>(1)</sup>.

The Commission invites interested third parties to submit their observations on the proposed concentration to the Commission.

In order to be fully taken into account in the procedure, observations should reach the Commission not later than 15 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301) or by post, under reference No M.7292 — DEMB/Mondelēz/Charger OpCo, to the following address:

European Commission  
Directorate-General for Competition  
Merger Registry  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

**Non-opposition to a notified concentration****(Case M.7453 — Cutrale / Safra / Chiquita)****(Text with EEA relevance)**

(2014/C 461/04)

On 16 December 2014, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 <sup>(1)</sup>. The full text of the decision is available only in English language and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/homepage.html?locale=en>) under document number 32014M7453. EUR-Lex is the online access to the European law.

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1.

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**Non-opposition to a notified concentration****(Case M.7413 — Cheung Kong Holdings/Mitsubishi Corporation/JV)****(Text with EEA relevance)**

(2014/C 461/05)

On 15 December 2014, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No. 139/2004 <sup>(1)</sup>. The full text of the decision is available only in English language and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/homepage.html?locale=en>) under document number 32014M7413. EUR-Lex is the online access to the European law.

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1.



## IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND  
AGENCIES

## COUNCIL

## COUNCIL DECISION

of 12 December 2014

**adopting the Council's position on the new draft budget of the European Union for the financial  
year 2015**

(2014/C 461/06)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 314(3) thereof, in conjunction with the Treaty establishing the European Atomic Energy Community and in particular Article 106a thereof,

Whereas:

- on 28 November 2014, the Commission submitted a proposal containing the new draft general budget of the European Union for the financial year 2015 <sup>(1)</sup>,
- the Council examined the Commission proposal with a view to defining a position consistent, on the revenue side, with Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources <sup>(2)</sup>, and, on the expenditure side, with Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 <sup>(3)</sup>,
- given the need to adopt a Council position on the new draft budget as soon as possible with a view to a budget being definitively adopted before the beginning of the financial year 2015, thus ensuring the continuity of the Union's action, it is justified to shorten, in accordance with Article 3(3) of the Council's Rules of Procedure, the eight-week period for the information of National Parliaments, as well as the ten-day period foreseen for placing the item on the Council's provisional agenda laid down in Article 4 of Protocol No 1.

HAS DECIDED AS FOLLOWS:

*Sole Article*

The Council's position on the new draft general budget of the European Union for the financial year 2015 was adopted by the Council on 12 December 2014.

<sup>(1)</sup> COM(2014) 723 final.

<sup>(2)</sup> OJ L 163, 23.6.2007, p. 17.

<sup>(3)</sup> OJ L 347, 20.12.2013, p. 884.

The full text can be accessed for consultation or downloading on the Council's website: <http://www.consilium.europa.eu/>

Done at Brussels, 12 December 2014.

*For the Council*

*The President*

S. GIANNINI

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**COUNCIL DECISION**  
**of 12 December 2014**  
**adopting the Council's position on draft amending budget No 3 of the European Union for the**  
**financial year 2014**  
(2014/C 461/07)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 314 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 <sup>(1)</sup> and in particular Article 41 thereof,

Whereas:

- the Union's budget for the financial year 2014 was definitively adopted on 20 November 2013 <sup>(2)</sup>,
- on 2 June 2014, the Commission submitted a proposal containing draft amending budget No 3 to the general budget for the financial year 2014,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The Council's position on draft amending budget No 3 of the European Union for the financial year 2014 was adopted on 12 December 2014.

The full text can be accessed for consultation or downloading on the Council's website: <http://www.consilium.europa.eu/>

Done at Brussels, 12 December 2014.

*For the Council*

*The President*

S. GIANNINI

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<sup>(1)</sup> OJ L 298, 26.10.2012, p. 1.

<sup>(2)</sup> OJ L 51, 20.2.2014, p. 1, with corrigenda in OJ L 111, 15.4.2014, p. 96, OJ L 124, 25.4.2014, p. 30 and OJ L 322, 7.11.2014, p. 1.

**COUNCIL DECISION**  
**of 12 December 2014**  
**adopting the Council's position on draft amending budget No 4 of the European Union for the**  
**financial year 2014**  
(2014/C 461/08)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 314 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 <sup>(1)</sup> and in particular Article 41 thereof,

Whereas:

- the Union's budget for the financial year 2014 was definitively adopted on 20 November 2013 <sup>(2)</sup>,
- on 9 July 2014, the Commission submitted a proposal containing draft amending budget No 4 to the general budget for the financial year 2014,
- on 16 October 2014, the Commission submitted a proposal containing a letter of amendment to draft amending budget No 4 to the general budget for the financial year 2014,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The Council's position on draft amending budget No 4 of the European Union for the financial year 2014, as modified by its letter of amendment, was adopted on 12 December 2014.

The full text can be accessed for consultation or downloading on the Council's website: <http://www.consilium.europa.eu/>

Done at Brussels, 12 December 2014.

*For the Council*

*The President*

S. GIANNINI

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<sup>(1)</sup> OJ L 298, 26.10.2012, p. 1.

<sup>(2)</sup> OJ L 51, 20.2.2014, p. 1, with corrigenda in OJ L 111, 15.4.2014, p. 96, OJ L 124, 25.4.2014, p. 30 and OJ L 322, 7.11.2014, p. 1.

**COUNCIL DECISION**  
**of 12 December 2014**  
**adopting the Council's position on draft amending budget No 5 of the European Union for the**  
**financial year 2014**  
(2014/C 461/09)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 314 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 <sup>(1)</sup> and in particular Article 41 thereof,

Whereas:

- the Union's budget for the financial year 2014 was definitively adopted on 20 November 2013 <sup>(2)</sup>,
- on 8 September 2014, the Commission submitted a proposal containing draft amending budget No 5 to the general budget for the financial year 2014,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The Council's position on draft amending budget No 5 of the European Union for the financial year 2014 was adopted on 12 December 2014.

The full text can be accessed for consultation or downloading on the Council's website: <http://www.consilium.europa.eu/>

Done at Brussels, 12 December 2014.

*For the Council*

*The President*

S. GIANNINI

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<sup>(1)</sup> OJ L 298, 26.10.2012, p. 1.

<sup>(2)</sup> OJ L 51, 20.2.2014, p. 1, with corrigenda in OJ L 111, 15.4.2014, p. 96, OJ L 124, 25.4.2014, p. 30 and OJ L 322, 7.11.2014, p. 1.

**COUNCIL DECISION****of 12 December 2014****adopting the Council's position on draft amending budget No 6 of the European Union for the financial year 2014**

(2014/C 461/10)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 314 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 <sup>(1)</sup> and in particular Article 41 thereof,

Whereas:

- the Union's budget for the financial year 2014 was definitively adopted on 20 November 2013 <sup>(2)</sup>,
- on 17 October 2014, the Commission submitted a proposal containing draft amending budget No 6 to the general budget for the financial year 2014,
- on 4 December 2014, the Commission submitted a proposal containing a letter of amendment to draft amending budget No 6 to the general budget for the financial year 2014,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The Council's position on draft amending budget No 6 of the European Union for the financial year 2014, as modified by its letter of amendment, was adopted on 12 December 2014.

The full text can be accessed for consultation or downloading on the Council's website: <http://www.consilium.europa.eu/>

Done at Brussels, 12 December 2014.

*For the Council**The President*

S. GIANNINI

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<sup>(1)</sup> OJ L 298, 26.10.2012, p. 1.

<sup>(2)</sup> OJ L 51, 20.2.2014, p. 1, with corrigenda in OJ L 111, 15.4.2014, p. 96, OJ L 124, 25.4.2014, p. 30 and OJ L 322, 7.11.2014, p. 1.

**COUNCIL DECISION**  
**of 12 December 2014**  
**adopting the Council's position on draft amending budget No 7 of the European Union for the**  
**financial year 2014**  
(2014/C 461/11)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 314 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to Regulation (EC, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 <sup>(1)</sup> and in particular Article 41 thereof,

Whereas:

- the Union's budget for the financial year 2014 was definitively adopted on 20 November 2013 <sup>(2)</sup>,
- on 17 October 2014, the Commission submitted a proposal containing draft amending budget No 7 to the general budget for the financial year 2014,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The Council's position on draft amending budget No 7 of the European Union for the financial year 2014 was adopted on 12 December 2014.

The full text can be accessed for consultation or downloading on the Council's website: <http://www.consilium.europa.eu/>

Done at Brussels, 12 December 2014.

*For the Council*

*The President*

S. GIANNINI

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<sup>(1)</sup> OJ L 298, 26.10.2012, p. 1.

<sup>(2)</sup> OJ L 51, 20.2.2014, p. 1, with corrigenda in OJ L 111, 15.4.2014, p. 96, OJ L 124, 25.4.2014, p. 30 and OJ L 322, 7.11.2014, p. 1.

**COUNCIL DECISION**  
**of 12 December 2014**  
**adopting the Council's position on draft amending budget No 8 of the European Union for the**  
**financial year 2014**  
(2014/C 461/12)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 314 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to Regulation (EC, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 <sup>(1)</sup> and in particular Article 41 thereof,

Whereas:

- the Union's budget for the financial year 2014 was definitively adopted on 20 November 2013 <sup>(2)</sup>,
- on 28 November 2014, the Commission submitted a proposal containing draft amending budget No 8 to the general budget for the financial year 2014,
- given the fact that draft amending budget No 8 to the general budget for 2014 needs to be adopted without delay, it is justified to shorten, in accordance with Article 3(3) of the Council's Rules of Procedure, the eight-week period for the information of national Parliaments, as well as the ten-day period foreseen for placing the item on the Council's provisional agenda laid down in Article 4 of Protocol No 1,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The Council's position on draft amending budget No 8 of the European Union for the financial year 2014 was adopted on 12 December 2014.

The full text can be accessed for consultation or downloading on the Council's website: <http://www.consilium.europa.eu/>

Done at Brussels, 12 December 2014.

*For the Council*

*The President*

S. GIANNINI

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<sup>(1)</sup> OJ L 298, 26.10.2012, p. 1.

<sup>(2)</sup> OJ L 51, 20.2.2014, p. 1, with corrigenda in OJ L 111, 15.4.2014, p. 96, OJ L 124, 25.4.2014, p. 30 and OJ L 322, 7.11.2014, p. 1.



# EUROPEAN COMMISSION

## Euro exchange rates <sup>(1)</sup>

19 December 2014

(2014/C 461/13)

1 euro =

Currency	Exchange rate	Currency	Exchange rate
USD US dollar	1,2279	CAD Canadian dollar	1,4239
JPY Japanese yen	146,41	HKD Hong Kong dollar	9,5233
DKK Danish krone	7,4391	NZD New Zealand dollar	1,5789
GBP Pound sterling	0,78470	SGD Singapore dollar	1,6147
SEK Swedish krona	9,4624	KRW South Korean won	1 349,92
CHF Swiss franc	1,2039	ZAR South African rand	14,2467
ISK Iceland króna		CNY Chinese yuan renminbi	7,6400
NOK Norwegian krone	9,0145	HRK Croatian kuna	7,6660
BGN Bulgarian lev	1,9558	IDR Indonesian rupiah	15 254,85
CZK Czech koruna	27,636	MYR Malaysian ringgit	4,2668
HUF Hungarian forint	316,45	PHP Philippine peso	54,937
LTL Lithuanian litas	3,45280	RUB Russian rouble	73,4223
PLN Polish zloty	4,2738	THB Thai baht	40,361
RON Romanian leu	4,4738	BRL Brazilian real	3,2525
TRY Turkish lira	2,8552	MXN Mexican peso	17,8389
AUD Australian dollar	1,5012	INR Indian rupee	77,7322

<sup>(1)</sup> Source: reference exchange rate published by the ECB.

**COMMISSION IMPLEMENTING DECISION****of 18 December 2014****amending Implementing Decision 2014/C 244/06 establishing the work programme for the year 2014 on financial contribution to the European Union reference laboratories**

(2014/C 461/14)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules <sup>(1)</sup>, and in particular Article 32(7) thereof,

Having regard to Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC <sup>(2)</sup>, and in particular Article 30 thereof,

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union <sup>(3)</sup>, and in particular Article 84(2) thereof.

Whereas:

- (1) Article 32 of Regulation (EC) No 882/2004 lays down the tasks and responsibilities of the European Union (EU) reference laboratories.
- (2) The EU reference laboratories submitted their work programmes for the year 2015. Those work programmes are in conformity with the objectives and priorities of the present work programme of the Commission.
- (3) Due to the animal health situation in 2014, in particular for TSEs and emergency fund diseases, the budgeted amounts were not entirely allocated.
- (4) As a consequence, the 2014 remaining appropriations can be used to finance the 2015 work programmes of the EU Reference Laboratories.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS DECIDED AS FOLLOWS:

*Article 1***Modification of Implementing Decision 2014/C 244/06**

1. In the title of Implementing Decision 2014/C 244/06, 'for the year 2015' is replaced by 'for the year 2014'.
2. In recital (2), 'the work programme for 2015' is replaced by 'the work programme for 2014'.
3. In the second paragraph of Article 1, '2015' is replaced by '2014'.
4. Article 2 is replaced by the following:

'The maximum contribution of the programme 2014 being implemented by the beneficiaries in 2015 is set at EUR 15 500 000, and shall be financed from the following line of the 2014 general budget of the European Union: 17.0403.'

<sup>(1)</sup> OJ L 165, 30.4.2004, p. 1.

<sup>(2)</sup> OJ L 189, 27.6.2014, p. 1.

<sup>(3)</sup> OJ L 298, 26.10.2012, p. 1.

*Article 2***Modification of Annex to Implementing Decision 2014/C 244/06**

1. In the title of Annex to Implementing Decision 2014/C 244/06, 'work programme of the Commission for 2015' is replaced by 'work programme of the Commission for 2014' and 'EU Reference Laboratories — Commission Work Programme for 2015' is replaced by 'EU Reference Laboratories — Commission Work Programme for 2014'.
2. In point 1.1 Introduction, second line of first paragraph, 'for year 2015' is deleted.
3. In point 1.5 Priorities, third paragraph, 'not only for the year 2015' is replaced by 'not only for the year 2014'.
4. In point 1.7 Essential criteria, as regards Award criteria, 'Conformity with objectives and priorities of the present Commission's work programme for the year 2015.' is replaced by 'Conformity with objectives and priorities of the present Commission's work programme for the year 2014.'.

Done at Brussels, 18 December 2014.

*For the Commission*

Vytenis ANDRIUKAITIS

*Member of the Commission*

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**Summary of Commission Decisions on authorisations for the placing on the market for the use and/or for use of substances listed in Annex XIV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)**

*(published pursuant to Article 64(9) of Regulation (EC) No 1907/2006 <sup>(1)</sup>)*

**(Text with EEA relevance)**

(2014/C 461/15)

**Decisions granting an authorisation**

Reference of the decision <sup>(2)</sup>	Date of decision	Substance name	Holder of the authorisation	Authorisation number	Authorised use	Date of expiry of review period	Reasons for the decision
C(2014) 9676	18 December 2014	Dibutyl phthalate (DBP) EC No 201-557-4 CAS No 84-74-2	Sasol-Huntsman GmbH & Co. KG Römerstrasse 733 47443 Moers, DEUTSCHLAND	REACH/14/2/0	The use of DBP as an absorption solvent in a closed system in the manufacture of maleic anhydride (MA)	21 February 2027	— Risk is adequately controlled in accordance with Article 60(2) of Regulation (EC) No 1907/2006.  — There are no suitable alternatives at present.

<sup>(1)</sup> OJ L 396, 30.12.2006, p. 1.

<sup>(2)</sup> The decision is available on the European Commission website at: [http://ec.europa.eu/enterprise/sectors/chemicals/reach/authorisation/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/chemicals/reach/authorisation/index_en.htm)

## V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON  
COMMERCIAL POLICY

## EUROPEAN COMMISSION

**Notice of initiation of an anti-dumping proceeding concerning imports of silico-manganese  
originating in India**

(2014/C 461/16)

The European Commission ('the Commission') has received a complaint pursuant to Article 5 of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup> ('the basic Regulation'), alleging that imports of silico-manganese, originating in India, are being dumped and are thereby causing material injury to the Union industry.

**1. Complaint**

The complaint was lodged on 10 November 2014 by Comité de Liaison des Industries de Ferro-Alliages ('Euroalliages' or 'the complainant') on behalf of three Union producers representing more than 25 % of the total Union production of silico- manganese.

**2. Product under investigation**

The product subject to this investigation is silico-manganese (including ferro-silico-manganese), hereinafter referred to as 'the product under investigation'.

**3. Allegation of dumping**

The product allegedly being dumped is the product under investigation, originating in India ('the country concerned'), currently falling within CN codes ex 7202 30 00 and ex 8111 00 11. These CN codes are given for information only.

The allegation of dumping from India is based on a comparison of the domestic price with the export price (at ex-works level) of the product under investigation when sold for export to the Union.

On this basis the dumping margins calculated are significant for the country concerned.

**4. Allegation of injury and causation**

The complainant has provided evidence that imports of the product under investigation from the country concerned have increased overall in absolute terms and have increased in terms of market share.

The *prima facie* evidence provided by the complainant shows that the volume and the prices of the imported product under investigation have had, among other consequences, a negative impact on the quantities sold and on the level of prices charged by the Union industry, resulting in substantial adverse effects on the overall performance, the financial situation and the employment situation of the Union industry.

**5. Procedure**

Having determined, after informing the Member States, that the complaint has been lodged by or on behalf of the Union industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the basic Regulation.

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

The investigation will determine whether the product under investigation originating in the country concerned is being dumped and whether the dumped imports have caused injury to the Union industry. If the conclusions are affirmative, the investigation will examine whether the imposition of measures would not be against the Union interest.

#### 5.1. **Procedure for the determination of dumping**

Exporting producers <sup>(1)</sup> of the product under investigation from the country concerned are invited to participate in the Commission investigation.

##### 5.1.1. *Investigating exporting producers*

###### (a) Sampling

In view of the potentially large number of exporting producers in India involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit the exporting producers to be investigated to a reasonable number by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary, and if so, to select a sample, all exporting producers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties have to do so within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information requested in Annex I to this Notice.

In order to obtain information it deems necessary for the selection of the sample of exporting producers, the Commission will also contact the authorities of India and may contact any known associations of exporting producers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the exporting producers may be selected based on the largest representative volume of exports to the Union which can reasonably be investigated within the time available. All known exporting producers, the authorities of India and associations of exporting producers will be notified by the Commission, via the authorities of India if appropriate, of the companies selected to be in the sample.

In order to obtain information it deems necessary for its investigation with regard to exporting producers, the Commission will send questionnaires to the exporting producers selected to be in the sample, to any known association of exporting producers, and to the authorities of the country concerned.

All exporting producers selected to be in the sample will have to submit a completed questionnaire within 37 days from the date of notification of the sample selection, unless otherwise specified.

Without prejudice to the possible application of Article 18 of the basic Regulation, companies that have agreed to their possible inclusion in the sample but are not selected to be in the sample will be considered to be cooperating ('non-sampled cooperating exporting producers'). Without prejudice to section (b) below, the anti-dumping duty that may be applied to imports from non-sampled cooperating exporting producers will not exceed the weighted average margin of dumping established for the exporting producers in the sample <sup>(2)</sup>.

###### (b) Individual dumping margin for companies not included in the sample

Non-sampled cooperating exporting producers may request, pursuant to Article 17(3) of the Basic Regulation, that the Commission establish their individual dumping margins. The exporting producers wishing to claim an individual dumping margin must request a questionnaire and return it duly completed within 37 days of the date of notification of the sample selection, unless otherwise specified. The Commission will examine whether they can be granted an individual duty in accordance with Article 9(5) of the basic Regulation.

However, exporting producers claiming an individual dumping margin should be aware that the Commission may nonetheless decide not to determine their individual dumping margin if, for instance, the number of exporting producers is so large that such determination would be unduly burdensome and would prevent the timely completion of the investigation.

<sup>(1)</sup> An exporting producer is any company in the country concerned which produces and exports the product under investigation to the Union market, either directly or via a third party, including any of its related companies involved in the production, domestic sales or exports of the product under investigation.

<sup>(2)</sup> Pursuant to Article 9(6) of the basic Regulation, any zero and *de minimis* margins, and margins established in accordance with the circumstances described in Article 18 of the basic Regulation will be disregarded.

### 5.1.2. Investigating unrelated importers <sup>(1)</sup> <sup>(2)</sup>

Unrelated importers of the product under investigation from India to the Union are invited to participate in this investigation.

In view of the potentially large number of unrelated importers involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit to a reasonable number the unrelated importers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all unrelated importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties must do so within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information requested in Annex II to this Notice.

In order to obtain information it deems necessary for the selection of the sample of unrelated importers, the Commission may also contact any known associations of importers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the importers may be selected based on the largest representative volume of sales of the product under investigation in the Union which can reasonably be investigated within the time available. All known unrelated importers and associations of importers will be notified by the Commission of the companies selected to be in the sample.

In order to obtain information it deems necessary for its investigation, the Commission will send questionnaires to the sampled unrelated importers and to any known association of importers. These parties must submit a completed questionnaire within 37 days from the date of the notification of the sample selection, unless otherwise specified.

### 5.2. Procedure for the determination of injury and investigating Union producers

A determination of injury is based on positive evidence and involves an objective examination of the volume of the dumped imports, their effect on prices on the Union market and the consequent impact of those imports on the Union industry. In order to establish whether the Union industry is injured, Union producers of the product under investigation are invited to participate in the Commission investigation.

In order to obtain information it deems necessary for its investigation with regard to Union producers the Commission will send questionnaires to known Union producers or representative Union producers and to any known association of Union producers, namely to:

- Eramet Comilog,
- OFZ a.s. Istebné,
- Italgisa S.p.A,
- Ferroatlantica S.L.,
- Comité de Liaison des Industries de Ferro-Alliages (Euroalliages).

<sup>(1)</sup> Only importers not related to exporting producers can be sampled. Importers that are related to exporting producers have to fill in Annex I to the questionnaire for these exporting producers. In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognized partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.

<sup>(2)</sup> The data provided by unrelated importers may also be used in relation to aspects of this investigation other than the determination of dumping.

The aforementioned Union producers and the associations of Union producers must submit the completed questionnaire within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified.

Any Union producer and association of Union producers not listed above is invited to contact the Commission, preferably by e-mail, immediately but no later than 15 days after the publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified, in order to make itself known and request a questionnaire.

### 5.3. ***Procedure for the assessment of Union interest***

Should the existence of dumping and injury caused thereby be established, a decision will be made, pursuant to Article 21 of the basic Regulation, as to whether the adoption of anti-dumping measures would not be against the Union interest. Union producers, importers and their representative associations, users and their representative associations, and representative consumer organisations are invited to make themselves known within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified. In order to participate in the investigation, the representative consumer organisations have to demonstrate, within the same deadline, that there is an objective link between their activities and the product under investigation.

Parties that make themselves known within the above deadline may provide the Commission with information on the Union interest within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified. This information may be provided either in a free format or by completing a questionnaire prepared by the Commission. In any case, information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

### 5.4. ***Other written submissions***

Subject to the provisions of this Notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*.

### 5.5. ***Possibility to be heard by the Commission investigation services***

All interested parties may request to be heard by the Commission investigation services. Any request to be heard should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within the specific deadlines set by the Commission in its communication with the parties.

### 5.6. ***Instructions for making written submissions and sending completed questionnaires and correspondence***

Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing a) the Commission to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their right of defence.

All written submissions, including the information requested in this Notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Limited' <sup>(1)</sup>.

Interested parties providing 'Limited' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled 'For inspection by interested parties'. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If an interested party providing confidential information does not furnish a non-confidential summary of it in the requested format and quality, such information may be disregarded.

<sup>(1)</sup> A 'Limited' document is a document which is considered confidential pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).



Interested parties are invited to make all submissions and requests by e-mail including scanned powers of attorney and certification sheets, with the exception of voluminous replies which shall be submitted on a CD-ROM or DVD by hand or by registered mail. By using e-mail, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: [http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc\\_148003.pdf](http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf) The interested parties must indicate their name, address, telephone and a valid e-mail address and they should ensure that the provided e-mail address is a functioning official business e-mail which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by e-mail only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by e-mail, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission  
Directorate-General for Trade  
Directorate H  
Office: CHAR 04/039  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

E-mail Injury: [TRADE-AD-SIMN-INJURY@ec.europa.eu](mailto:TRADE-AD-SIMN-INJURY@ec.europa.eu)

E-mail Dumping: [TRADE-AD-SIMN-DUMPING@ec.europa.eu](mailto:TRADE-AD-SIMN-DUMPING@ec.europa.eu)

## 6. Non-cooperation

In cases where any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of facts available, in accordance with Article 18 of the basic Regulation.

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

Failure to give a computerised response shall not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost. The interested party should immediately contact the Commission.

## 7. Hearing Officer

Interested parties may request the intervention of the Hearing Officer in trade proceedings. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested parties' rights of defence are being fully exercised.

A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within specific deadlines set by the Commission in its communication with the parties.

The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered on issues pertaining, among other things, to dumping, injury, causal link and Union interest. Such a hearing would, as a rule, take place at the latest at the end of the fourth week following the disclosure of provisional findings.

For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: [http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/index\\_en.htm](http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/index_en.htm)

#### 8. **Schedule of the investigation**

The investigation will be concluded, pursuant to Article 6(9) of the basic Regulation within 15 months of the date of the publication of this Notice in the *Official Journal of the European Union*. In accordance with Article 7(1) of the basic Regulation, provisional measures may be imposed no later than nine months from the publication of this Notice in the *Official Journal of the European Union*.

#### 9. **Processing of personal data**

Any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data <sup>(1)</sup>.

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<sup>(1)</sup> OJ L 8, 12.1.2001, p. 1.

## ANNEX I

- |                            |  |
|----------------------------|--|
| <input type="checkbox"/>   | 'Limited version' <sup>(1)</sup>               |
| <input type="checkbox"/>   | Version 'For inspection by interested parties' |
| (tick the appropriate box) |  |

**ANTI-DUMPING PROCEEDING CONCERNING IMPORTS OF SILICO-MANGANESE ORIGINATING IN INDIA****INFORMATION FOR THE SELECTION OF THE SAMPLE OF EXPORTING PRODUCERS IN INDIA**

This form is designed to assist exporting producers in India in responding to the request for sampling information made in point 5.1.1 of the Notice of Initiation.

Both the 'Limited' version and the version open 'For inspection by interested parties' should be returned to the Commission as set out in the Notice of Initiation.

**1. IDENTITY AND CONTACT DETAILS**

Supply the following details about your company:

Company name	
Address	
Contact person	
E-mail address	
Telephone	
Fax	

**2. TURNOVER AND SALES VOLUME**

Indicate the turnover in the accounting currency of the company during the period 1 October 2013 to 30 September 2014 (export sales to the Union for each of the 28 Member States <sup>(2)</sup> separately and in total and domestic sales) of silico-manganese as defined in the Notice of Initiation and the corresponding weight or volume. State the unit of weight or volume and the currency used.

	Specify the unit of measurement	Value in accounting currency Specify the currency used
Export sales to the Union, for each of the 28 Member States separately and in total, of the product under investigation, manufactured by your company	Total:	
	Name each Member State <sup>(1)</sup> :	
Domestic sales of the product under investigation, manufactured by your company		

<sup>(1)</sup> Add additional rows where necessary.

<sup>(1)</sup> This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement).

<sup>(2)</sup> The 28 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Croatia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

**3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES <sup>(1)</sup>**

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under investigation. Such activities could include but are not limited to purchasing the product under investigation or producing it under sub-contracting arrangements, or processing or trading the product under investigation.

Company name and location	Activities	Relationship

**4. OTHER INFORMATION**

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

**5. INDIVIDUAL DUMPING MARGIN**

The company declares that, in the event that it is not selected to be in the sample, it would like to receive a questionnaire and other claim forms in order to fill these in and thus claim an individual dumping margin in accordance with section 5.1.1.b of the notice of initiation.

☐ Yes☐ No**6. CERTIFICATION**

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will involve completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating exporting producers are based on facts available and the result may be less favourable to that company than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

  

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<sup>(1)</sup> In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognized partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.

## ANNEX II

- |                            |  |
|----------------------------|--|
| <input type="checkbox"/>   | 'Limited version' <sup>(1)</sup>               |
| <input type="checkbox"/>   | Version 'For inspection by interested parties' |
| (tick the appropriate box) |  |

**ANTI-DUMPING PROCEEDING CONCERNING IMPORTS OF SILICO-MANGANESE ORIGINATING IN INDIA****INFORMATION FOR THE SELECTION OF THE SAMPLE OF UNRELATED IMPORTERS**

This form is designed to assist unrelated importers in responding to the request for sampling information made in point 5.1.2 of the Notice of Initiation.

Both the 'Limited' version and the version open 'For inspection by interested parties' should be returned to the Commission as set out in the Notice of Initiation.

**1. IDENTITY AND CONTACT DETAILS**

Supply the following details about your company:

Company name	
Address	
Contact person	
E-mail address	
Telephone	
Fax	

**2. TURNOVER AND SALES VOLUME**

Indicate the total turnover in EUR of the company, and the turnover and weight or volume for imports into the Union <sup>(2)</sup> and resales on the Union market after importation from India, during the period 1 October 2013 to 30 September 2014, of silico-manganese as defined in the notice of initiation and the corresponding weight or volume. State the unit of weight or volume used.

	Specify the unit of measurement	Value in EUR
Total turnover of your company in EUR		
Imports of the product under investigation into the Union		
Resales on the Union market after importation from India of the product under investigation		

<sup>(1)</sup> This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement).

<sup>(2)</sup> The 28 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Croatia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

### 3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES <sup>(1)</sup>

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under investigation. Such activities could include but are not limited to purchasing the product under investigation or producing it under sub-contracting arrangements, or processing or trading the product under investigation.

Company name and location	Activities	Relationship

#### 4. OTHER INFORMATION

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

## 5. CERTIFICATION

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will involve completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating importers are based on the facts available and the result may be less favourable to that company than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

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(1) In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognized partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.

**Notice of initiation of an anti-dumping proceeding concerning imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), originating in India**

(2014/C 461/17)

The European Commission ('the Commission') has received a complaint pursuant to Article 5 of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup> ('the basic Regulation'), alleging that imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), originating in India, are being dumped and are thereby causing material injury to the Union industry.

**1. Complaint**

The complaint was lodged on 10 November 2014 by Saint-Gobain PAM, Saint-Gobain PAM Deutschland GmbH and Saint-Gobain PAM España SA ('the complainants') on behalf of producers representing more than 25 % of the total Union production of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron).

**2. Product under investigation**

The product subject to this investigation is tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), hereinafter referred to as 'the product under investigation'.

**3. Allegation of dumping**

The product allegedly being dumped is the product under investigation, originating in India ('the country concerned'), currently falling within CN codes ex 7303 00 10 and ex 7303 00 90. These CN codes are given for information only.

The allegation of dumping from the country concerned is based on a comparison of the domestic price with the export price (at ex-works level) of the product under investigation when sold for export to the Union.

On this basis the dumping margins calculated are significant for the country concerned.

**4. Allegation of injury and causation**

The complainants have provided evidence that imports of the product under investigation from the country concerned have increased overall in absolute terms and have increased in terms of market share.

The *prima facie* evidence provided by the complainants shows that the volume and the prices of the imported product under investigation have had, among other consequences, a negative impact on the quantities sold, the level of prices charged and the market share held by the Union industry, resulting in substantial adverse effects on the overall performance and the employment situation of the Union industry.

**5. Procedure**

Having determined, after informing the Member States, that the complaint has been lodged by or on behalf of the Union industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the basic Regulation.

The investigation will determine whether the product under investigation originating in the country concerned is being dumped and whether the dumped imports have caused injury to the Union industry. If the conclusions are affirmative, the investigation will examine whether the imposition of measures would not be against the Union interest.

**5.1. Procedure for the determination of dumping**

Exporting producers <sup>(2)</sup> of the product under investigation from the country concerned are invited to participate in the Commission investigation.

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

<sup>(2)</sup> An exporting producer is any company in the country concerned which produces and exports the product under investigation to the Union market, either directly or via a third party, including any of its related companies involved in the production, domestic sales or exports of the product under investigation.

#### 5.1.1. Investigating exporting producers

##### (a) Sampling

In view of the potentially large number of exporting producers in the country concerned involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit the exporting producers to be investigated to a reasonable number by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary, and if so, to select a sample, all exporting producers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties have to do so within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information requested in Annex I to this Notice.

In order to obtain information it deems necessary for the selection of the sample of exporting producers, the Commission will also contact the authorities of the country concerned and may contact any known associations of exporting producers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the exporting producers may be selected based on the largest representative volume of exports to the Union which can reasonably be investigated within the time available. All known exporting producers, the authorities of the country concerned and associations of exporting producers will be notified by the Commission, via the authorities of the country concerned if appropriate, of the companies selected to be in the sample.

In order to obtain information it deems necessary for its investigation with regard to exporting producers, the Commission will send questionnaires to the exporting producers selected to be in the sample, to any known association of exporting producers, and to the authorities of the country concerned.

All exporting producers selected to be in the sample will have to submit a completed questionnaire within 37 days from the date of notification of the sample selection, unless otherwise specified.

Without prejudice to the possible application of Article 18 of the basic Regulation, companies that have agreed to their possible inclusion in the sample but are not selected to be in the sample will be considered to be cooperating ('non-sampled cooperating exporting producers'). Without prejudice to Section (b) below, the anti-dumping duty that may be applied to imports from non-sampled cooperating exporting producers will not exceed the weighted average margin of dumping established for the exporting producers in the sample<sup>(1)</sup>.

##### (b) Individual dumping margin for companies not included in the sample

Non-sampled cooperating exporting producers may request, pursuant to Article 17(3) of the basic Regulation that the Commission establish their individual dumping margins ('individual dumping margin'). The exporting producers wishing to claim an individual dumping margin must request a questionnaire and return it duly completed within 37 days of the date of notification of the sample selection, unless otherwise specified. The Commission will examine whether they can be granted an individual duty in accordance with Article 9(5) of the basic Regulation.

However, exporting producers claiming an individual dumping margin should be aware that the Commission may nonetheless decide not to determine their individual dumping margin if, for instance, the number of exporting producers is so large that such determination would be unduly burdensome and would prevent the timely completion of the investigation.

<sup>(1)</sup> Pursuant to Article 9(6) of the basic Regulation, any zero and *de minimis* margins, and margins established in accordance with the circumstances described in Article 18 of the basic Regulation will be disregarded.



### 5.1.2. Investigating unrelated importers <sup>(1)</sup> <sup>(2)</sup>

Unrelated importers of the product under investigation from the country concerned to the Union are invited to participate in this investigation.

In view of the potentially large number of unrelated importers involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit to a reasonable number the unrelated importers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all unrelated importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties must do so within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information requested in Annex II to this Notice.

In order to obtain information it deems necessary for the selection of the sample of unrelated importers, the Commission may also contact any known associations of importers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the importers may be selected based on the largest representative volume of sales of the product under investigation in the Union which can reasonably be investigated within the time available. All known unrelated importers and associations of importers will be notified by the Commission of the companies selected to be in the sample.

In order to obtain information it deems necessary for its investigation, the Commission will send questionnaires to the sampled unrelated importers and to any known association of importers. These parties must submit a completed questionnaire within 37 days from the date of the notification of the sample selection, unless otherwise specified.

### 5.2. Procedure for the determination of injury and investigating Union producers

A determination of injury is based on positive evidence and involves an objective examination of the volume of the dumped imports, their effect on prices on the Union market and the consequent impact of those imports on the Union industry. In order to establish whether the Union industry is injured, Union producers of the product under investigation are invited to participate in the Commission investigation.

In order to obtain information it deems necessary for its investigation with regard to Union producers the Commission will send questionnaires to known Union producers or representatives of Union producers and to any known association of Union producers, namely to:

- Saint-Gobain PAM
- Saint-Gobain PAM Deutschland GmbH
- Saint-Gobain PAM España SA
- Duktus Rohrsysteme Wetzlar GmbH
- Tiroler Rohre GmbH
- Jindal Saw Italia SpA

<sup>(1)</sup> Only importers not related to exporting producers can be sampled. Importers that are related to exporting producers have to fill in Annex 1 to the questionnaire for these exporting producers. In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.

<sup>(2)</sup> The data provided by unrelated importers may also be used in relation to aspects of this investigation other than the determination of dumping.

The aforementioned Union producers and the associations of Union producers must submit the completed questionnaire within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified.

Any Union producer and association of Union producers not listed above is invited to contact the Commission, preferably by e-mail, immediately but no later than 15 days after the publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified, in order to make itself known and request a questionnaire.

### 5.3. **Procedure for the assessment of Union interest**

Should the existence of dumping and injury caused thereby be established, a decision will be made, pursuant to Article 21 of the basic Regulation, as to whether the adoption of anti-dumping measures would not be in the Union interest. Therefore, Union producers, importers and their representative associations, users and their representative associations, and representative consumer organisations are invited to make themselves known within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified. In order to participate in the investigation, the representative consumer organisations have to demonstrate, within the same deadline, that there is an objective link between their activities and the product under investigation.

Parties that make themselves known within the above deadline may provide the Commission with information on the Union interest within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified. This information may be provided either in a free format or by completing a questionnaire prepared by the Commission. In any case, information submitted will only be taken into account if supported by factual evidence at the time of submission.

### 5.4. **Other written submissions**

Subject to the provisions of this Notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*.

### 5.5. **Possibility to be heard by the Commission investigation services**

All interested parties which have made themselves known within the deadlines specified above may request to be heard by the Commission investigation services. Any request to be heard should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within the specific deadlines set by the Commission in its communication with the parties.

### 5.6. **Instructions for making written submissions and sending completed questionnaires and correspondence**

Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing: (a) the Commission to use the information and data for the purpose of this trade defence proceeding; and (b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their right of defence.

All written submissions, including the information requested in this Notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Limited' <sup>(1)</sup>.

Interested parties providing 'Limited' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled 'For inspection by interested parties'. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If an interested party providing confidential information does not furnish a non-confidential summary of it in the requested format and quality, such information may be disregarded.

<sup>(1)</sup> A 'Limited' document is a document which is considered confidential pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

Interested parties are invited to make all submissions and requests by e-mail including scanned powers of attorney and certification sheets, with the exception of voluminous replies which shall be submitted on a CD-ROM or DVD by hand or by registered mail. By using e-mail, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: [http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc\\_148003.pdf](http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf) The interested parties must indicate their name, address, telephone and a valid e-mail address and they should ensure that the provided e-mail address is a functioning official business e-mail which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by e-mail only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by e-mail, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission  
Directorate-General for Trade  
Directorate H  
Office: CHAR 04/039  
1040 Bruxelles/Brussel  
BELGIQUE/BELGIË

E-mail: [TRADE-DCIT-INDIA-DUMPING@ec.europa.eu](mailto:TRADE-DCIT-INDIA-DUMPING@ec.europa.eu)  
[TRADE-DCIT-INDIA-INJURY@ec.europa.eu](mailto:TRADE-DCIT-INDIA-INJURY@ec.europa.eu)

## 6. Non-cooperation

In cases where any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of facts available, in accordance with Article 18 of the basic Regulation.

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

Failure to give a computerised response shall not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost. The interested party should immediately contact the Commission.

## 7. Hearing Officer

Interested parties may request the intervention of the Hearing Officer in trade proceedings. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested parties' rights of defence are being fully exercised.

A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within specific deadlines set by the Commission in its communication with the parties.

The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered on issues pertaining, among other things, to dumping, injury, causal link and Union interest. Such a hearing would, as a rule, take place at the latest at the end of the fourth week following the disclosure of provisional findings.

For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: <http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>

#### 8. **Schedule of the investigation**

The investigation will be concluded, pursuant to Article 6(9) of the basic Regulation within 15 months of the date of the publication of this Notice in the *Official Journal of the European Union*. In accordance with Article 7(1) of the basic Regulation, provisional measures may be imposed no later than nine months from the publication of this Notice in the *Official Journal of the European Union*.

#### 9. **Processing of personal data**

Any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data <sup>(1)</sup>.

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<sup>(1)</sup> OJ L 8, 12.1.2001, p. 1.

## ANNEX I

- |                            |  |
|----------------------------|--|
| <input type="checkbox"/>   | 'Limited version' <sup>(1)</sup>               |
| <input type="checkbox"/>   | Version 'For inspection by interested parties' |
| (tick the appropriate box) |  |

**ANTI-DUMPING PROCEEDING CONCERNING IMPORTS OF TUBES AND PIPES OF DUCTILE CAST IRON (ALSO KNOWN AS SPHEROIDAL GRAPHITE CAST IRON), ORIGINATING IN INDIA**

**INFORMATION FOR THE SELECTION OF THE SAMPLE OF EXPORTING PRODUCERS IN INDIA**

This form is designed to assist exporting producers in India in responding to the request for sampling information made in point 5.1.1 of the Notice of Initiation.

Both the 'Limited' version and the version 'For inspection by interested parties' should be returned to the Commission within 15 days from the publication of the Notice of Initiation.

**1. IDENTITY AND CONTACT DETAILS**

Supply the following details about your company:

Company name	
Address	
Contact person	
E-mail address	
Telephone	
Fax	

**2. TURNOVER AND SALES VOLUME**

Indicate the turnover in the accounting currency of the company during the period 1 October 2013 to 30 September 2014 for sales (export sales to the Union for each of the 28 Member States <sup>(2)</sup> separately and in total and domestic sales) of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), originating in India, as defined in the notice of initiation and the corresponding weight and length. State the unit of weight and length and the currency used.

	Tonnes		Metres	Value in accounting currency Specify the currency used
Export sales to the Union, for each of the 28 Member States separately and in total, of the product under investigation, manufactured by your company	Total:			
	Name each Member State <sup>(1)</sup> :			
Domestic sales of the product under investigation, manufactured by your company				

<sup>(1)</sup> Add additional rows where necessary.

<sup>(1)</sup> This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement).

<sup>(2)</sup> The 28 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Croatia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

**3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES <sup>(1)</sup>**

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under investigation. Such activities could include but are not limited to purchasing the product under investigation or producing it under subcontracting arrangements, or processing or trading the product under investigation.

Company name and location	Activities	Relationship

**4. OTHER INFORMATION**

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

**5. INDIVIDUAL DUMPING MARGIN**

The company declares that, in the event that it is not selected to be in the sample, it would like to receive a questionnaire and other claim forms in order to fill these in and thus claim an individual dumping margin in accordance with Section 5.1.1(b) of the notice of initiation.

☐ Yes☐ No**6. CERTIFICATION**

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will involve completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating exporting producers are based on facts available and the result may be less favourable to that company than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

  

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<sup>(1)</sup> In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.

## ANNEX II

<input type="checkbox"/>	'Limited version' <sup>(1)</sup>
<input type="checkbox"/>	Version 'For inspection by interested parties'
(tick the appropriate box)	

**ANTI-DUMPING PROCEEDING CONCERNING IMPORTS OF TUBES AND PIPES OF DUCTILE CAST IRON (ALSO KNOWN AS SPHEROIDAL GRAPHITE CAST IRON), ORIGINATING IN INDIA**

**INFORMATION FOR THE SELECTION OF THE SAMPLE OF UNRELATED IMPORTERS**

This form is designed to assist unrelated importers in responding to the request for sampling information made in point 5.1.2 of the Notice of Initiation.

Both the 'Limited' version and the version 'For inspection by interested parties' should be returned to the Commission within 15 days for the publication of the notice of initiation.

**1. IDENTITY AND CONTACT DETAILS**

Supply the following details about your company:

Company name	
Address	
Contact person	
E-mail address	
Telephone	
Fax	

**2. TURNOVER AND SALES VOLUME**

Indicate the total turnover in EUR of the company, and the turnover in weight and length for imports into the Union <sup>(2)</sup> and resales on the Union market after importation from India, during the period 1 October 2013 to 30 September 2014, of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) as defined in the Notice of Initiation and the corresponding weight and length. State the unit of weight and length used.

	Tonnes	Metres	Value in EUR
Total turnover of your company in EUR			
Imports of the product under investigation into the Union			
Resales on the Union market after importation from India of the product under investigation			

<sup>(1)</sup> This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement).

<sup>(2)</sup> The 28 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Croatia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

**3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES <sup>(1)</sup>**

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under investigation. Such activities could include but are not limited to purchasing the product under investigation or producing it under subcontracting arrangements, or processing or trading the product under investigation.

Company name and location	Activities	Relationship

**4. OTHER INFORMATION**

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

**5. CERTIFICATION**

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will involve completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating importers are based on the facts available and the result may be less favourable to that company than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

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<sup>(1)</sup> In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law. (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.



## PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

### EUROPEAN COMMISSION

#### **Prior notification of a concentration**

**(Case M.7474 — QIA/BPP/Songbird)**

#### **Candidate case for simplified procedure**

**(Text with EEA relevance)**

(2014/C 461/18)

1. On 15 December 2014, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 <sup>(1)</sup> by which the undertakings Qatar Investment Authority ('QIA', Qatar) and Brookfield Property Partners LP ('BPP', Bermuda) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of Songbird Estates plc ('Songbird', United Kingdom) by way of a public bid.

2. The business activities of the undertakings concerned are:

- QIA is the sovereign investment fund of the State of Qatar,
- BPP is solely controlled by Brookfield Asset Management Inc. (Canada), which is an alternative asset management company focusing on investments in property, renewable energy, infrastructure, and private equity,
- Songbird is the parent company of Canary Wharf Group plc, which is active in the development, investment and management of property in London, primarily in the Canary Wharf area.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004 <sup>(2)</sup> it should be noted that this case is a candidate for treatment under the procedure set out in this Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by e-mail to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number M.7474 — QIA/BPP/Songbird, to the following address:

European Commission  
Directorate-General for Competition  
Merger Registry  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

<sup>(2)</sup> OJ C 366, 14.12.2013, p. 5.

## OTHER ACTS

## EUROPEAN COMMISSION

**Publication of an application pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs**

(2014/C 461/19)

This publication confers the right to oppose the application pursuant to Article 51 of Regulation (EU) No 1151/2012 of the European Parliament and of the Council <sup>(1)</sup>.

## SINGLE DOCUMENT

**COUNCIL REGULATION (EC) No 510/2006****on the protection of geographical indications and designations of origin for agricultural products and foodstuffs <sup>(2)</sup>****‘PASTEL DE CHAVES’****EC No: PT-PGI-0005-1126-2.7.2013****PGI (X) PDO ( )****1. Name**

‘Pastel de Chaves’

**2. Member State or Third Country**

Portugal

**3. Description of the agricultural product or foodstuff****3.1. Type of product**

Class 2.3. Bread, pastry, cakes, confectionery, biscuits and other baker's wares

**3.2. Description of the product to which the name in 1 applies**

‘Pastel de Chaves’ is a half-moon shaped pastry product consisting of thinly-layered puff pastry filled with a special preparation of minced veal. It comes in two different sizes, cooked or pre-frozen and has the following physical and organoleptic characteristics:

Table 1

**Physical characteristics: minimum and maximum values for the two different sizes of ‘Pastel de Chaves’**

	Pastel de Chaves		Pastel de Chaves <i>aperitivo</i>	
	Min.	Max.	Min.	Max.
Length (cm)	12	14	8	9
Width (cm)	6	8,5	5	6
Height (cm)	3	4,5	2	3
Weight (g)	60	90	20	30

<sup>(1)</sup> OJ L 343, 14.12.2012, p. 1.

<sup>(2)</sup> OJ L 93, 31.3.2006, p. 12. Replaced by Regulation (EU) No 1151/2012.

Table 2

**Organoleptic characteristics**

External appearance	A half-moon shaped puff pastry, whose upper surface rises higher at the front where the pastry 'splits' during baking. When baked the colour ranges from toasted yellow to golden.
Internal appearance	When the pastry is cut vertically, it can be seen to consist of very thin sheets, which give it a finely layered appearance. The upper half of the pastry is yellow-golden in colour, contrasting with the lower half, which is slightly moist and darkened by the minced meat. In the middle is the filling, where the different ingredients, notably pieces of meat and onion, can be seen.
Texture	Firm, crisp puff pastry which contrasts markedly with the filling, which is thick, soft, moist, succulent and melts in the mouth.
Taste	During cooking, the juices of the minced veal preparation are released and some of this seeps into the puff pastry, giving the final product its characteristic taste and aroma. When eaten, the puff pastry is simultaneously crispy and unctuous and melts in the mouth, and the filling soft, unctuous, moist and aromatic, with perceptible flavours of veal, olive oil and onion.

3.3. *Feed (for products of animal origin only)*

—

3.4. *Specific steps in production that must take place in the defined geographical area*

## Preparing the filling

Know-how is crucial at this stage in determining when the filling has reached an optimal degree of softness and cohesiveness, which is essentially done empirically, on the basis of the baker's knowledge and experience.

## Preparing the dough, putting in the filling and giving the pastry its final shape

These procedures clearly demonstrate the bakers' know-how, as a great deal of skill and manual dexterity is required to obtain half-moon shaped pastries of uniform size, with the finely layered appearance and firm, crispy texture that are so characteristic of this product.

## Pre-freezing

Once the half-moon shapes are ready, some bakers then pre-freeze them immediately. This is done at the production facilities to avoid unwanted handling and reduce the possibility of microbiological contamination.

3.5. *Specific rules concerning slicing, grating, packaging, etc.*

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3.6. *Specific rules concerning labelling*

Irrespective of the form of commercial presentation, the labelling must bear the words:

— Pastel de Chaves – Indicação Geográfica Protegida or Pastel de Chaves IGP;

— the 'Pastel de Chaves' logo:



#### 4. Concise definition of the geographical area

Municipality of Chaves.

#### 5. Link with the geographical area

##### 5.1. Specificity of the geographical area

From 1862, until today, the know-how associated with the production of 'Pastel de Chaves' has remained within the confines of the municipality.

Difficult access to the area, which until not so long ago meant that it was not easy to enter or leave the Chaves valley, helped ensure that this know-how remained within the region of origin.

This is a key factor in the history of the recipe, which for over 75 years was in the possession of one single establishment, the *Casa do Antigo Pasteleiro*, where the original oven can still be seen today. Only in the 1940s did evidence start appearing in local publications that the secret no longer belonged exclusively to a single establishment, with 'Pastel de Chaves' becoming the area's signature pastry product. Some of the advertisements reflect the importance that the product had acquired at national level, stating that orders could be sent 'anywhere in the country, on receipt of advance payment' (*Almanaque de Chaves*, 1949).

In the Municipality of Chaves, there is written and oral evidence attesting that 'as far back as 1862 the Pastel was being produced in Chaves by the first *pasteleira*, Teresa Feliz Barreira.' (*Notícias de Chaves*, Year XXXVII – No 1921, 22 April 1987). The tradition and know-how have been handed down until today and a clear sign of the product's link with the area is the name 'Pastel de Chaves' and the fact that no similar products or even imitations are produced in neighbouring areas. For 150 years Chaves pastry makers have been building up knowledge of how to make the filling and the dough, which has resulted in this pastry, whose reputation is directly linked with its place of origin.

##### 5.2. Specificity of the product

'Pastel de Chaves' can be distinguished from other bakery products by its half-moon shape and finely layered crisp puff pastry, made by hand in the traditional way, and by the texture of the filling, which is thick, soft, moist, succulent and melts in the mouth.

The production method used to obtain the fine, delicate dough and the filling containing pieces of meat and onion bound together by the bread, is based on the know-how developed over the years by the bakers of Chaves.

First, the special method of preparing the dough, which involves rolling it out then rolling in the fat and folding is done three times, culminating in the formation of a roll of dough which is then cut into slices 2-3 cm wide, clearly demonstrates the know-how of the local bakers, as great skill and manual dexterity are required to obtain pastries that are uniform in size, with the finely layered appearance and firm and crispy texture characteristic of this product.

Second, the preparation of the filling, which combines well-cooked meat with small pieces of hard wheat bread, ensuring the cohesiveness and softness of the preparation, is reflected in the quality of the final product and the appearance of the filling itself, where pieces of meat and onion can be seen, firmly bound together by the bread.

Third, the know-how employed when handling such a fine dough is crucial in shaping the pastry and together with the filling gives this savoury product a specific external and internal appearance and a consistency, flavour and texture that make it unique.

The specificity of 'Pastel de Chaves' derives from the know-how employed in making the dough and the filling and giving the pastry its final shape.

##### 5.3. Causal link between the geographical area and the quality or characteristics of the product (for PDO) or a specific quality, the reputation or other characteristic of the product (for PGI)

'Pastel de Chaves' is the direct result of the know-how required to prepare the puff pastry and the filling, whose 'history goes back to 1862, when a seller of unknown origin passed through the town of Chaves with a basket containing some unusually shaped pastries, which she did not have in sufficient quantities to meet demand. In order to satisfy the local appetite, Teresa Feliz Barreira, the founder of the *Casa do Antigo Pasteleiro*, is said to have offered to pay one pound for the recipe for this unique delicacy' (*Revista Unibanco*, January/February 2004).

The local methods, which have remained virtually unchanged for over 150 years, and the know-how that remained within the same establishment — the *Casa do Antigo Pasteleiro* — for over 75 years, combined with the fact that the town of Chaves is situated in a wide valley, dominated by granite and schist rising to over 1 084 metres, and for a long time access was difficult, meant that this knowledge remained confined to the region of origin; nor has any similar product been prepared in the surrounding geographical areas.

'Pastel de Chaves' lingers in the memory and on the palate and has gained a prominent place in Portugal's culinary repertoire. It deserves the title 'Portugal's best puff pastry' (*Revista Unibanco*, January/February 2004).

The reputation and renown of 'Pastel de Chaves', associated exclusively with the municipality of Chaves for over 150 years, are well documented.

**Publication reference of the specification**

(Article 5(7) of Regulation (EC) No 510/2006 <sup>(3)</sup>)

[http://www.dgadr.mamaot.pt/images/docs/val/dop\\_igp\\_etg/Valor/CE\\_pastel\\_chaves\\_2012.pdf](http://www.dgadr.mamaot.pt/images/docs/val/dop_igp_etg/Valor/CE_pastel_chaves_2012.pdf)

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<sup>(3)</sup> See footnote 2.





